

Burlington Planning Commission

Tuesday, October 8, 2024, 6:30 PM

Remote & Virtual Meeting via Zoom

In person option available:

Bushor Conference Room (Room 102), 1st Floor of City Hall, 149 Church St.

To Join the Meeting on a Computer

Link: <https://zoom.us/j/97941883790?pwd=bGZBNzNyV1lL3p5NkhIL2dqUFIzdz09>

Passcode: 658929

To Join the Meeting on a Phone

Number: +1 646 931 3860 US Meeting ID: 979 4188 3790

1. Agenda

2. Chair's Report

3. Director's Report

4. Public Forum

Subject	4.1. Speakers will be limited to no more than 3 minutes during the public forum.
Meeting	October 8, 2024 - Planning Commission Agenda - Tuesday, October 8, 2024, 6:30 PM, Burlington Planning Commission
Category	4. Public Forum
Department	Planning
Type	

5. Public Meeting for Proposed CDO Amendment

Subject	5.1. Proposed CDO Amendment: ZA-25-03 SEID Stormwater Standards.
Meeting	October 8, 2024 - Planning Commission Agenda - Tuesday, October 8, 2024, 6:30 PM, Burlington Planning Commission
Category	5. Public Meeting for Proposed CDO Amendment
Department	Planning
Type	

Recommended Action Ask questions and provide feedback on the draft amendment and staff presentation of Chapter 26, Article III: Stormwater and Erosion Control

6. Discussion on staff work plan and future amendments

Subject	6.1. Discussion on staff work plan and future amendments
Meeting	October 8, 2024 - Planning Commission Agenda - Tuesday, October 8, 2024, 6:30 PM, Burlington Planning Commission
Category	6. Discussion on staff work plan and future amendments
Department	Planning
Type	
Recommended Action	

7. Commissioner Items

8. Adopt Minutes

Subject	8.1. Review and approve the Planning Commission meeting minutes from September 24, 2024
Meeting	October 8, 2024 - Planning Commission Agenda - Tuesday, October 8, 2024, 6:30 PM, Burlington Planning Commission
Category	8. Adopt Minutes
Department	Planning
Type	

9. Communications

10. Adjournment



City of Burlington, VT
149 Church Street, 3rd Floor
Burlington, VT 05401
Phone: (802) 865-7144

www.burlingtonvt.gov/plan

TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
Sarah Morgan, Planner
DATE: September 24, 2024
RE: Details Related to Upcoming Planning Projects and Zoning Amendments

Upcoming Planning Projects

Planning Projects Managed by the Office of City Planning

planBTV: New North End

The City of Burlington's Office of City Planning, in partnership with the CCRPC, has begun the *planBTV: New North End* planning process. The objective of this project is to establish a long-term vision for Burlington's New North End neighborhoods, guiding future growth and infrastructure investments to create a vibrant, welcoming, accessible, and sustainable collection of distinct districts and neighborhoods. *planBTV: New North End* will involve data-driven analysis and City-led public engagement, ensuring that the community's vision and values are integral to the planning process.

preserveBTV: Historic Preservation Plan

The City of Burlington's Preservation Plan, *preserveBTV*, will be a citywide visioning document, identifying priorities for preservation that will enable sustainable, long-term use of the city's historic structures. Managed by the Office of City Planning in collaboration with the Department of Permitting & Inspections, *preserveBTV* will include an assessment of the current historic districts within the city, a review of the framework for historic preservation within the city, a list of best practices for protecting the city's historic resources, and policy and non-regulatory recommendations. Once completed, the *preserveBTV* will be integrated into the municipal development plan, *planBTV*, and inform updates to the Comprehensive Development Ordinance (CDO).

planBTV: Burlington's Comprehensive Plan

Office of City Planning Staff is in the early stages of preparing for Burlington's Comprehensive Planning process. Staff hopes to formally begin this process in early 2025.

Additional Citywide Plans Supported by Planning Staff

Open Space Plan

Burlington's Department of Permitting & Inspections, in collaboration with Parks & Recreation, City Planning, and the Conservation Board, plans to address the management and resiliency of Burlington's urban forest and open spaces through the development of a comprehensive Open Space Plan. The City has pre-determined that one of the key results of this plan will include an update to the City's Tree Ordinance, which was identified as in need of revision by *planBTV*.

2024 *planBTV* Walk Bike Plan Update

The City of Burlington's Department of Public Works (DPW), in partnership with the CCRPC, is preparing an update to the existing 2017 *planBTV* Walk Bike Plan. This action-oriented document will provide a list of projects the City will prioritize in coming years. The goal is to identify and prioritize projects which will offer the greatest benefits to public safety and have community support. This will be done as dynamically as possible so this information and prioritization can evolve and grow as data changes. The *planBTV* Walk Bike Action Plan will be built through data-driven analysis and public engagement targeted specifically at underserved populations. The result will be a clear identification and prioritization of specific projects, programs, and policies that DPW should focus on implementing in the coming years. This document will support the City in applying for future rounds of Safe Streets for All (SS4A) or other grant funding, increasing active transportation mode share, and providing a safe and accessible active transportation network for all ages and abilities.

Zoning Amendments

Current Amendments

- **ZA-24-03: Emergency Shelters**

This amendment brings emergency shelter standards in the CDO into compliance with the current statutory standards.

Status: Burlington City Council voted to refer this amendment back to the City Council Ordinance Committee during its meeting on September 24, 2024.

- **ZA-24-04: Neighborhood Code 2A**

This amendment modifies the residential zoning district standards to facilitate additional housing types and addresses a range of topics not addressed in ZA-24-02

Status: Following discussions on September 11th and 16th, the City Council Ordinance Committee bifurcated ZA-24-04 into two parts, and. The first part of Neighborhood Code 2A

- **ZA-25-01: Overdose Prevention Centers**

The proposed amendment establishes a definition and use standards for Overdose Prevention Centers, a use enabled by 18 V.S.A. § 4254.

Status: Waiting for direction from the Administration.

Future Amendments

- **Planned Unit Developments (PUDs)**

Modifications to the PUD standards, including the consideration of a threshold for lot/project size in the Residential districts, as well as development intensity, permitted uses, and other topics as identified.

- **SEID Green Stormwater Standards**

Water Resources has identified challenges related to the types of GSI required in SEID. This amendment will revise GSI standards to be more flexible.

- **Urban Reserve**

The Community Sailing Center has requested to amend the Urban Reserve district to make small boat storage an allowed use in the Urban Reserve. The goal is to resume the Community Kayak and Paddle Program that was ended with the implementation of the early phases of the Moran project.

- **Neighborhood Code Part 2-B**

A continuation of the Neighborhood Code amendments aimed at enabling neighborhood-scale housing options. Part 2-B covers the following topics:

- Flag Lot and fee-simple
- Cottage Court standards, including site and lot dimensions, frontage, access, development intensity, open space, and other topics as identified
- Townhouse and fee-simple duplex standards, including site, lot and building dimensions, frontage, access, development intensity and other topics as identified

- **Inclusionary Zoning**

An amendment that would address up to five core IZ topics, and potentially some more technical changes. The five core topics are as follows:

- Creating more flexibility in using the off-site option
- Allowing PIL for any IZ above a baseline 15%
- Creating flexibility in tenure mix in large projects
- Eliminating the 25% IZ tier
- Increasing the PIL and instituting an annual PIL adjustment methodology

- **University Road**

Map amendment to rezone parking lot in RL area to Institutional to allow for a higher lot coverage and therefore allow for UVM to retain already-completed roadway improvements.

- **Administrative Waivers**

An amendment addressing standards in the Downtown Form Code for which there is currently little to no flexibility. Such waivers are often necessary responses to on-the-ground conditions in areas regulated by form

codes. Examples include parking inside/rear setbacks, building occupation in frontage zones, permitted areas of blank wall and others.

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

CDO—SEID Stormwater Standards
ZA-25-03

ORDINANCE _____
Sponsors: 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: _____

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

Sec. 4.5.6 South End Innovation District Overlay

(a) Purpose:

The South End Innovation District Overlay (SEID) is intended to provide for a dense, vibrant and dynamic mixed-use district. The overlay is unique in its allowance for residential uses in an in that it limits the most intensive manufacturing and industrial uses allowed elsewhere in the district. The overlay permits arts, employment, and other non-residential uses intrinsic to an amenity-rich, convenient urban neighborhood.

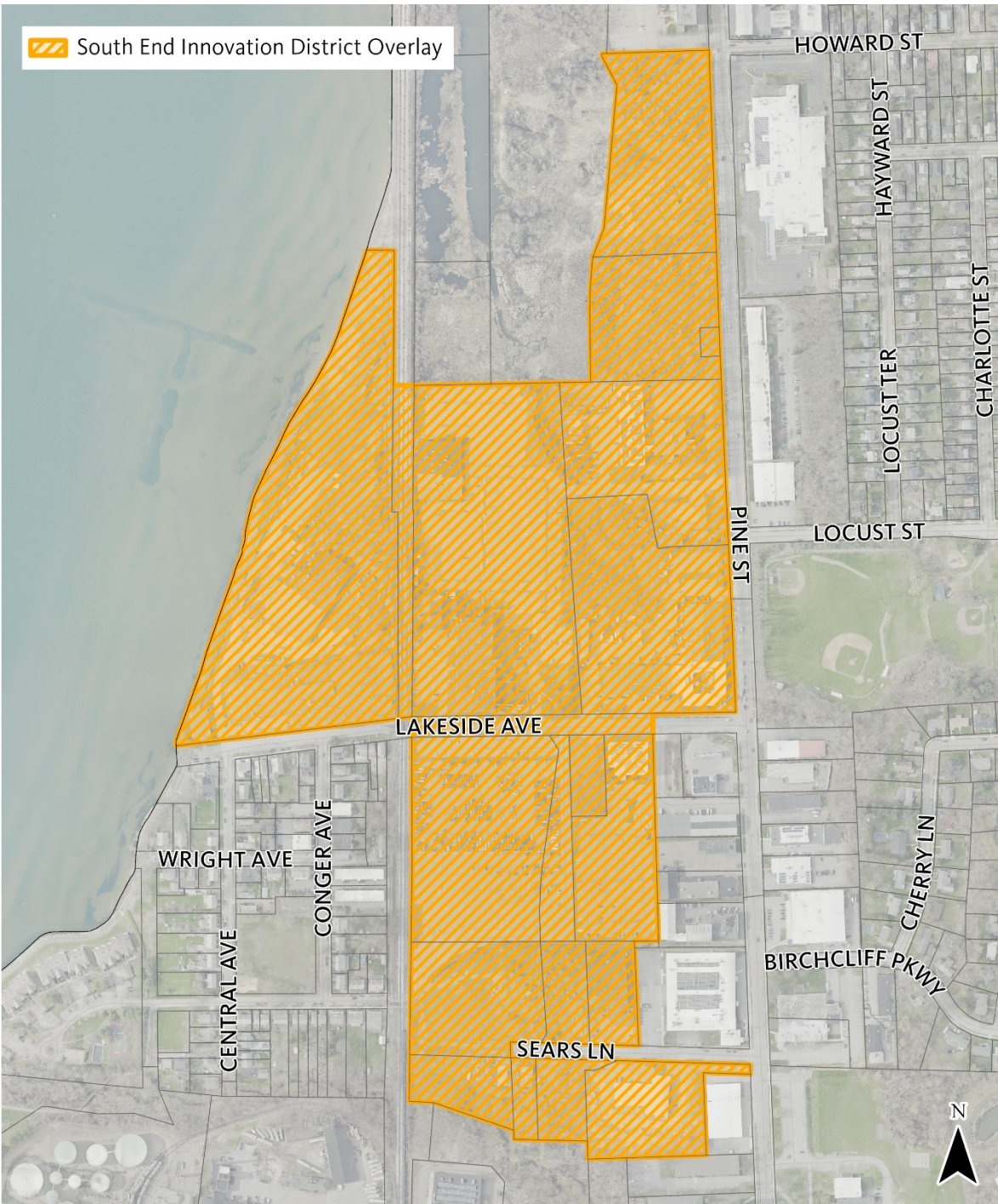
Development is intended to be dense and highly sustainable. Lot coverage standards permit significant development but ~~require~~ a high degree of permeable surfaces achieved through green stormwater infrastructure is encouraged. Buildings should range in height from one to eight stories, and should be constructed of materials and in manners that limit embodied carbon and achieve the highest possible energy performance permitted by the Vermont Building Code. Sites should incorporate ample public and private open spaces and include extensive networks of accessible paths that are free of cars. Streets should be constructed in a manner that allocates the majority of their space to pedestrians and cyclists. Buildings should be oriented to the public realm – streets, paths and open spaces, in a manner that creates a safe and inviting district. Site and building design should support public and ecological health to the highest possible degree.

Parking should be hidden behind structures, including perimeter buildings or screening devices. Where possible, parking structures should be located along the most heavily trafficked roads to encourage residents, employees and visitors who arrive by car to park at the district's edge and travel on foot, by bike, or other mode of transportation that is compatible with Burlington's climate objectives. Special consideration should be given to the design and construction of parking structures to allow for their renovation to other uses in coming decades as Burlington evolves from car dependence.

(b) Areas Covered:

The South End Innovation District includes those portions of the E-LM Zoning District as delineated on Map 4.5.6-1.

Map 4.5.6-1 SEID Overlay



Map 4.5.6-1 South End Innovation District (E-SEID) Overlay
Overlay District Effective 08/23/23 (ZA-23-01)

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(c) District Specific Regulations

Table 4.5.6-1: SEID Dimensional Standards & Density

Block Perimeter ¹	Max. Intensity (floor area ratio ^{2,3})	Max Building Size per Floorplate ^{4,5}	Max. Lot Coverage & Pervious Surface Required ⁶	Minimum Building Setbacks ⁷			Max. Height ⁸
				Front	Side	Rear	
1,600' max	2.5 FAR	Floors 1-6: 15,000 sq. ft. Floors 7-8: 10,000 sq. ft. <i>Except as permitted by Sec. 4.5.6 (c) 1</i>	80% max impervious 25% min of pervious area must utilize GSI	0' min 20' max ⁵	0' min 20' max ⁵	0' min 20' max ⁶	85'

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1. Blocks may be enclosed by any combination of streets within public Rights-of-Way or Public Paths. Where a property abuts a railroad or area identified as Wetland, Conservation or Natural Area on Map 4.5.3-1 Natural Resource Protection Overlay District, such boundaries may serve as enclosing block boundaries.
2. Floor area ratio is described in Sec 5.2.7.
3. Bonuses for additional FAR for inclusionary housing projects are described in Sec. 9.1.12.
4. Maximum square footage applies to each floorplate.
5. One parking structure per lot established as of January 1, 2023 may exceed the 15,000 sq. ft. floorplate maximum standard according to the following:
 - a. When the structure contains a transit use, the maximum floorplate is 60,500 sq. ft., or
 - b. When the structure does not contain a transit use, the maximum floor plate is 30,000 sq. ft.
- ~~6. At least 25% of the pervious area on a lot must include one or more of the following Green Stormwater Management (GSI) techniques: constructed wetland, suspended pavement planted with shade trees, or pervious pavement. No more than 50% of the required GSI area may utilize pervious pavement.~~
- ~~7.6.~~ Setbacks are measured from the property line; however, buildings must be at least 15' from the curb or edge of a public Right of Way if no curb exists.
- ~~8.7.~~ Maximum building height in the E-SEID shall be further limited by Map 4.5.6-2: SEID Specific Height Area Map.

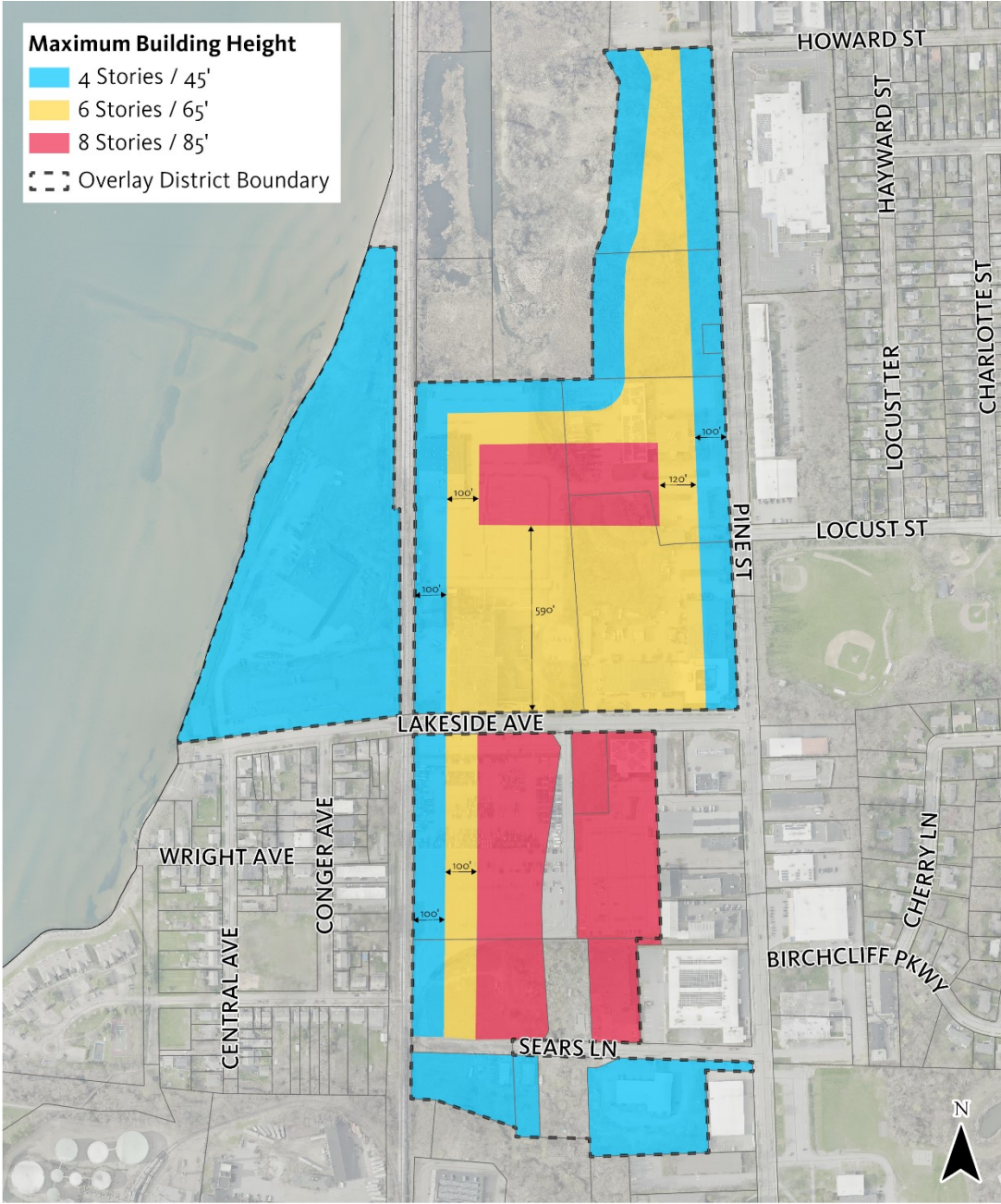
1. Dimensional Standards & Density

Within the SEID the standards set forth in *Table 4.5.6-1* shall apply to new development and redevelopment, except:

Floors 7-8 may increase maximum size to 15,000 sq.ft. per floorplate for buildings constructed of Mass Timber consistent with currently adopted Building Code as contained under Chapter 8 of the City Code of Ordinances.

~~The maximum lot coverage may be increased by 10%, to a maximum of 90%, if the site is certified as Gold or Platinum under the SITES system, as administered by Green Business Certification, Inc. (GBCI), or if all of the pervious area on the lot is constructed from one or more of the following Green Stormwater Management (GSI) techniques: constructed wetland, suspended pavement planted with one shade tree per 250 square feet of area, or pervious pavement. No more than 50% of the GSI area may utilize pervious pavement.~~

Map 4.5.6-2 SEID Specific Height Area Map



Map 4.5.6-2 SEID Specific Height Area Map

Overlay District Effective 08/23/23 (ZA-23-01)

Map 4.5.6-2 SEID Specific Height Area Map

Table 4.5.6-2: Frontage and Activation Standards

Frontage Type	Min lot frontage occupied by buildings ^{1,2}	Percent of ground floor building frontage containing non-residential uses ¹	Ground floor entries required
Primary	80% min	80% min	Every 60' min
Secondary	70% min	20% min or 500 sq. ft. whichever is greater	

1) Measured linearly.

2) A courtyard on a building façade adjacent to a street or Public Path, with minimum dimensions 12 feet minimum and 35 feet maximum, shall be counted in the calculation of frontage to satisfy this requirement.

2. Frontage and Ground Floor Activation Standards

A. Lot Frontage Occupied by Buildings: Buildings shall be placed on a lot such that they frame Streets and Public Paths. The percentage of a lot's frontage that must be occupied by a building(s) located between the minimum and maximum setback is determined by Table 4.5.8-2.

- i. Primary and Secondary frontages must be identified by the property owner. Each Block must contain at least one Primary frontage.
- ii. A lot's frontage buildout may be reduced by up to 10 percent upon the determination of the Zoning Administrative Officers that the relief is necessary to access to the rear of the lot as a result of lot width or building placement constraints.

B. Building Frontage Occupied by Non-Residential Uses: Buildings fronting on Streets of Public Paths must contain a minimum amount of non-residential uses on the ground floor as determined by Table 4.5.8-2.

- i. Building corners, when located at the intersection of two Streets or Public Paths, must include non-residential uses.
- ii. The depth of a building's ground floor non-residential uses shall be at least an average of 15 feet, measured orthogonally from the building facade.
- iii. For all Streets and Public Paths, Primary and Secondary frontages must be identified by the property owner.
- iv. The minimum non-residential frontage requirements may be reduced to 35% for Primary Frontages and 0% for Secondary Frontages using one of two, but not a combination thereof, of the alternative compliance methods described below:

Alternative 1: The required percentage of ground floor non-residential uses may be reduced in 15% increments for each Primary frontage and 7% increments for each secondary frontage for each of the following methods:

- a. At least 30% of non-residential use ground floor area is maintained as affordable for at least 30 years, as defined and administered by the Community and Economic Development Office (CEDO).
- b. A building is placed adjacent to one or more publicly accessible open spaces on the

same lot. Such open spaces must be at least 4,000 sq. ft. in area and no portion of the open space may have a dimension less than 10 feet. Qualifying open spaces may be located in a courtyard on the building's frontage, to the side, or in front of the building for which a reduction in ground floor non-residential use is being sought.

- c. A building containing residential uses includes an allocation of at least 10% three-bedroom units and 15% percent two-bedroom units.

Alternative 2: A detached, one- or two-story permanent structure containing non-residential uses that is constructed within or adjacent to the public realm, including Rights-of-Way, or open space on the same lot may be provided in lieu of required ground floor non-residential uses on a one-to-one basis as determined by the square footage of the detached structure.

- V. In buildings with 16 or fewer units, the non-residential ground floor use is not required to be in the building as long as an equal amount of non-residential square footage is provided in another building on the same lot.

- C. Ground Floor Entries: At least one ground floor public entry, not including service doors, is required each 60' linear feet of each building façade fronting on a Street, Public Path or open space on the same lot.

3. Parking

- A. No more than 25 total spaces or 15% of the Lot's area, whichever is greater, may be permitted in Surface Parking Lots on any one lot. For the purposes of this standard, Surface Parking Lot area shall include area of all stalls and drive aisles. The total number of off-street parking spaces provided shall not be more than as allowed in Table 8.1.9-1. On Primary Frontages, Parking is not permitted between a building and the Street or Public Path. In such Parking Lots, priority parking spaces shall be made available, as described in Sec. 8.1.16 (c) c.4 – Parking Management.

- B. Structured Parking

- i. All above ground Parking Structures shall be located behind a Perimeter Building, or screened so that cars and internal structure lighting are not visible from adjacent streets or properties. Screening can be provided by architectural structure or vegetative trellis.
- ii. Parking Structure ingress/egress shall be consolidated into one façade opening and shall not exceed 24 feet in width or shall be separated into no more than two openings per façade, with a combined width of no more than 28 feet. Each façade opening shall not exceed 16 feet clear height.
- iii. At least one pedestrian route shall lead directly to a Street or Public Path. When portions of a Building containing parking front on more than one street, multiple pedestrian routes to the Frontage are strongly encouraged.

4. Uses

Within the SEID, only the following uses shall be permitted.

Table 4.5.6-3 Uses Permitted & Limited within the SEID

Permitted Uses:	
Residential ¹	
Assisted Living	
Attached Dwellings - Multi-Family	
Co-Housing	
Convalescent/Nursing Home	
Emergency Shelter	
Group Home	
Dormitory	
Non-Residential	
Adult Day Care	Office - General
Agricultural Use	Office – Medical/Dental
Amusement Arcade	Office - Technical
Animal Boarding/Kennel Shelter	Open Air Markets
Animal Grooming	Park
Animal Hospital/Veterinarian's Office	Parking Garage ³
Appliance Sales/Service	Parking Lot ³
Art Gallery/Studio	Performing Arts Center
Bakery	Performing Arts Studio
Bank/Credit Union	Pet Store
Bar/Tavern	Pharmacy
Beauty/Barber Shop	Photo Studio
Bicycle Sales/Repair	Photography Lab
Billiard Parlor	Place of Worship
Bowling Alley	Police Station - Local
Cafe	Post Office - Local
Cinema	Printing Plant
Community Center	Printing Shop
Community Garden	Public Transit Terminal
Convenience Store	Public Works Yard/Garage
Crisis Counseling Center	Radio & TV Studio
Daycare	Recording Studio
Dry Cleaning Service	Recreational Facility - Indoor
Film Studio	Recreational Facility - Outdoor
Fire Station	Research & Development Facility
Food & Beverage Processing	Research Lab
Garden Supply Store	Restaurant

Permitted Uses:	
General Merchandise/Retail - Small < 4,000 sqft	Restaurant – Take Out
Grocery Store ≤ 10,000 sf	Salon/Spa
Health Club	School – Post-Secondary and CC
Health Studio	School - Preschool
Laundromat	School - Primary
Library	School - Secondary
Manufacturing - Light	School – Trade, or Professional
Mental Health Crisis Center	Tailor Shop
Museum – Small ≤ 10,000 sf	

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1. Residential uses are permitted only in new buildings, or in additions to existing buildings, built after January 1, 2023.
 2. Parking Structure and Parking Lot uses are regulated by Sec. 4.5.6(c) 3 Parking and Table 4.5.6-1 SEID Dimensional Standards & Density.

Planning/KS/Ordinances 2025/ZA-25-03 SEID Stormwater Standards
CDO Sections
10/4/2024

Chapter 26

WASTEWATER, STORMWATER, AND POLLUTION CONTROL

ARTICLE 3. STORMWATER & EROSION CONTROL

DIVISION 1. GENERAL PROVISIONS

Section 26-3-1. Applicability

A. Except as exempted under item D below, this Article shall apply to all property within the City of Burlington, and shall apply specifically to:

1. construction activities that include land disturbance activities and are subject to Major Impact, Subdivision, and/or Planned Unit Development zoning permit review as defined in the Comprehensive Development Ordinance, and/or are subject to building permit or approval under any regulation or ordinance of the City of Burlington;
2. any construction activity that include land disturbance activities of 400 square feet or more and are subject to zoning permit review other than noted in a) above and/or are subject to building permit or approval under any regulation or ordinance of the City of Burlington;
3. any condition or activity, regardless of the amount of impervious surface or disturbed area proposed, where there exists any hydrological condition which may lead to offsite sediment runoff or other pollutant load to a public sewer or natural outlet.
4. illegal discharges and/or connections into any premise, public or private property, driveway, parking area, street, alley, sidewalk, component of the MS4, CS, or Public Sewer.

B. All projects, conditions, and activities that are subject to this Article must meet the minimum requirements of this Article, and reserved.

C. All projects, conditions, and activities that are subject to this Article shall be determined by the Department of Public Works to be compliant with:

1. the City's MS4 General Permit No. 3-9014, as issued and as amended by the State of Vermont; and,
2. the City's Combined Sewer Overflows and Sewer Ordinance conditions of and Final Discharge Permit No. 3-1331, 3-1247 and 3-1245, Part 1, Section F. Combined Sewer Overflows and Section I. Sewer Ordinance, as issued and as amended by the State of Vermont; and,
3. where applicable, the Vermont Stormwater Manual design requirements to the maximum extent practicable as determined by the Director, and,

D. The following projects, conditions and activities are exempt from this Article:

1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources as determined by the Department of Public Works.

2. Any accepted agricultural or silvicultural practices as defined by the Vermont secretary of agriculture, food and markets, or the Vermont commissioner of forests, parks and recreation, respectively.
3. Any athletic/sports facility commonly involving bare earth, such as baseball diamonds and volleyball courts.
4. Bulk storage of landscaping materials such as topsoil, gravel, and mulch within compounds or bunkers for commercial or governmental use, so long as such storage does not directly result in offsite sedimentation.

E. The requirements of this Article may be waived in whole or in part by the Director at the Department of Public Works on a case by case basis upon written request of the applicant, provided that it is demonstrated by the applicant that at least one of the following conditions applies:

1. alternative measures for on-site and/or off-site management of erosion and stormwater have been proposed, and these measures comply with City ordinance(s) and permits, or
2. it is otherwise demonstrated that the proposed development will not produce any significant change to the existing pre-application hydrology and will not contribute substantially to offsite sediment runoff or other pollutant loads resulting in little to no impact on stormwater quality.

Section 26-3-2. Application Requirements.

A. Unless otherwise exempted or waived by this Article, every zoning permit application involving Major Impact, Subdivision, and/or Planned Unit Development review per Sec. 26-3-1, A, 1 shall be accompanied by the following, as applicable:

- (1) A written approval from the Department of Public Works for discharge to or connection with Public Sewers,
- (2) An “Erosion Prevention and Sediment Control (ESPC) Plan”,
- (3) A “Stormwater Management Plan”, and,
- (4) A written determination from the Department of Public Works that the project for which a permit is requested complies with the City’s MS4 General Permit, CS discharge permit and the Vermont Stormwater Manual design requirements.

B. Unless otherwise exempted or waived by this Article, every other project, condition or activity per Sec. 26-3-1, A, 2 and 3 shall be accompanied by the following, as applicable:

1. A written approval from the Department of Public Works for discharge to or connection with Public Sewers,
2. A completed Small Project Erosion and Sediment Control Plan approved in writing by the Department of Public Works,
3. A “Stormwater Management Plan”, and,
4. A written determination from the Department of Public Works that the project for which a permit is requested complies with the City’s MS4 General

Permit, CS discharge permit and the Vermont Stormwater Manual design requirements.

C. Prior to commencement of the project, condition, or activity, the applicant shall submit site plans and designs and any supporting documentation to the Department of Public Works for review and approval. No project, condition, or activity shall commence until the Department of Public Works has reviewed and issued a written approval.

D. The City shall prescribe the form(s) and information that shall be submitted to determine compliance with this Article, with sufficient copies for necessary referrals and records.

Section 26-3-3. Responsibilities

A. The Department of Public Works, in consultation with the Department of Planning & Zoning, shall administer and implement the provisions of this Article. The Code Enforcement Office shall enforce the provisions of this Article in the event of a violation.

B. The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore this Article does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge or discharge of pollutants.

DIVISION 2. ILLEGAL DISCHARGES

Section 26-3-4. Applicability

This Division applies to all properties within the jurisdictional area of this Chapter, unless specifically exempted by Section 26-3-6.

Section 26-3-5. Prohibitions

A. Illicit Connections

1. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any premise, public or private property, driveway, parking area, street, alley, sidewalk, component of the MS4, CS or Public Sewer, or any surface water of the City of Burlington, any object or material, including but not limited to: water, refuse, rubbish, garbage, animal waste, litter, yard waste, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution, or interfere with the operation, maintenance and access to the MS4, CS or Public Sewer. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.
2. The construction, use, maintenance or continued existence of illicit connections to the MS4, CS or Public Sewer is prohibited.

3. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

B. Illegal Discharges

1. No person shall discharge or cause to be discharged into the MS4, any materials, including but not limited to pollutants or waters containing any pollutants, other than stormwater, or any materials that may impede the natural flow of stormwater or the functionality of the MS4 without first receiving written authorization from the Director upon a determination that such discharge is in compliance with this Division and other applicable City ordinances, regulations or permits.

2. No person shall discharge or cause to be discharged into the CS and/or Public Sewer without first receiving written authorization from the Director upon a determination that such discharge is in compliance with the City's Final Discharge Permit No. 3-1331, 3-1247 and 3-1245, Part 1, Section F. Combined Sewer Overflows and Section I. Sewer Ordinance as issued and as amended by the State of Vermont; and, the provisions of the City of Burlington Ordinances.

Section 26-3-6. Exemptions

The commencement or continuance of any illegal discharge to the MS4, and/or surface or groundwater, CS or Public Sewer is prohibited except as described as follows:

- A. Water line flushing or other potable water sources, landscape irrigation or lawn watering, approved stream flow diversions, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pool draining (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- B. Discharges specified in writing by the Director of the Department of Public Works as being necessary to protect public health and safety.
- C. Dye testing is an allowable discharge, but requires a verbal notification to the Department of Public Works prior to the time of the test.
- D. The prohibition shall not apply to any stormwater or non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4 by the Department of Public Works.
- E. Discharges specifically allowed and not prohibited under the City's Final Discharge Permit No. 3-1331, 3-1247 and 3-1245, as issued and as amended by the State of Vermont; and,

- F. Discharges specifically allowed and not prohibited under the Section 26-2-22 of this Chapter.

Section 26-3-7. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge regulation, and/or permit shall comply with all provisions of such regulation and/or permit. Proof of compliance with said regulation and/or permit may be required in a form acceptable to the Director prior to the allowing of discharges to the MS4.

Section 26-3-8. Monitoring of Discharges

This section applies to all premises that have storm water discharges associated with industrial activity, construction activity, and post-construction (operational) stormwater management.

- A. The Department of Public Works shall be permitted to enter and inspect any premise subject to regulation under this Division as often as may be necessary to determine compliance with this Division. If a person has security measures in force which require proper identification and clearance before entry into its premise, the person shall make the necessary arrangements to allow access to representatives of the Department of Public Works.
- B. A person shall allow the Department of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit, a Vermont post-construction (operational) stormwater management permit, a zoning permit, a building permit or approval under any regulation or ordinance of the City of Burlington to discharge storm water, and the performance of any additional duties as defined by state and federal law. All monitoring data shall be recorded in the associated permit/approval files and entered into the city's permitting system.
- C. The Department of Public Works shall have the right to set up on any permitted premises such devices as are necessary in the opinion of the Director to conduct monitoring and/or sampling of the premises storm water discharge.
- D. The Director has the right to require a person to install monitoring equipment as necessary. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator of the premise at their own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy. The owner or operator of the premise shall demonstrate calibration techniques and satisfactory operation of the devices to the Department of Public Works upon request.
- E. Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner or operator of the premise at the written or oral request of the Department of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator of the premise.
- F. Unreasonable delays in allowing the Department of Public Works access to permitted premises are a violation of this Division. A person who is the operator

of a premise with a NPDES permit to discharge storm water associated with industrial activity or construction activity, a Vermont post-construction (operational) stormwater management permit, a zoning permit, a building permit or approval under any regulation or ordinance of the City of Burlington commits an offense if the person denies the Department of Public Works reasonable access to the permitted premises for the purpose of conducting any activity authorized or required by this Division.

- G. If the Department of Public Works has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

Section 26-3-9. Control, Prevention and Reduction of Stormwater Pollutants

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4, and/or surface or groundwater, CS or Public Sewer through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illegal discharge and/or illicit connection, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4, and/or surface or groundwater, CS or Public Sewer. Compliance with all terms and conditions of a valid NPDES or MSGP permit, a Vermont post-construction (operational) stormwater management permit, a zoning permit, a building permit or approval under any regulation or ordinance of the City of Burlington authorizing the discharge of stormwater, shall be deemed to be in compliance with the provisions of this section.

Section 26-3-10. Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, and/or surface or groundwater, CS or Public Sewer, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Department of Public Works either in person, by phone, or facsimile no later than the next business day. Notifications in person

or by phone shall be confirmed by written notice addressed and mailed to the Department of Public Works within three business days of the phone notice.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, steps taken to remediate said illicit discharge, and the actions taken to prevent its recurrence. Such records shall be retained on-site by the owner or operator for at least three years.

DIVISION 3. EROSION PREVENTION AND SEDIMENT CONTROL

Sec. 26-3-11. Applicability of Erosion Prevention and Sediment Control

This Division applies to all properties within the jurisdictional area of this Chapter, unless specifically exempted or waived by Section 26-3-14.

Sec. 26-3-12. Prohibitions

No person subject to this Article as defined by section 26-3-1, shall cause, allow or permit the discharge and/or release of any sediment or other pollutant created by soil erosion to a public sewer or natural outlet unless such discharge and/or release is incidental to the implementation of an approved EPSC plan under this Division.

Sec. 26-3-13. Permits

Except as exempted or waived per Sec. 26-3-14, no person shall be granted a Zoning Permit, Building Permit, Excavation Permit or any other approval for any project, condition or land disturbance activity regulated under this Article without the written approval of an Erosion Prevention and Sediment Control Plan by the Department of Public Works.

Sec. 26-3-14. Exemptions and Waivers

The discharge and/or release of any sediment from land disturbance activities subject to this Division is prohibited except exempted or waived by Section 26-3-1, D or E.

Sec. 26-3-15. Erosion Prevention and Sediment Control Requirements

A. Design Requirements

All erosion prevention practices, sediment control practices, waterway and watercourse protection practices and construction site access practices shall meet the design criteria set forth in the Vermont Standards & Specifications for Erosion Prevention & Sediment

Control, 2006, and as amended, City of Burlington, Department of Public Works Public Sewer, Stormwater and Erosion Control Specifications, Standards and Management Practices Design Manual, latest version, and the Burlington Comprehensive Development Ordinance, latest version, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of Department of Public Works. In the event of conflicting design criteria within these standards, the stricter shall prevail.

B. General Performance Criteria for Erosion Prevention and Sediment Control
The following are required performance criteria:

1. Prevent erosion and the transport of sediment off lot, onto the public streets and sidewalks, into the municipal stormwater system, and/or waters of the State. Earthen material hauled offsite by way of a dump truck or similar method does not constitute erosion or sedimentation;
2. Prevent parking of any construction or construction related vehicles on City owned green space. Damage to green space shall be immediately addressed;
3. Take any and all steps necessary to abate erosion and to clean up all resulting sediment deposited, discharged or found to exist off lot, on City streets and sidewalks, and/or in the City stormwater system;
4. Maintain project erosion prevention and sediment control devices/measures and perform requisite cleanup of resulting sedimentation. This may include, but is not limited to, daily sweeping of streets and sidewalks and cleaning City stormwater catch basins;
5. Specify appropriate seed and fertilizer applications that are ecologically sound and site specific;
6. Specify an appropriate mulch when and where needed and adequate anchoring measures to prevent mulch from being blown away;
7. Specify an effective grass re-vegetation program. Turf replacement is recommended in areas where re-vegetation of grass proves difficult with seeding and mulch. To reestablish all existing and proposed green space and, where practical, consider porous (pervious) pavers and associated pervious subsurface;
8. Engage the contractor to be proactive in planning and executing construction phase activities with the goal of preventing erosion and controlling sediment;
9. Identify the parties to the EPSC plan and clearly define their respective roles and responsibilities including, but not limited to, the contractor, the onsite erosion coordinator, those responsible for project adherence to the EPSC, and those participating in inspections and acceptance of final site stabilization; and,
10. Define the overall strategy for the EPSC plan by:

- a) Limiting actual disturbance area and time of disturbance;
- b) Employing proper site stabilization (addressing soil preparation for final seeding and landscaping, seed, pesticide/herbicide use, and mulch);
- c) Specifying stone and/or grass swale lining where appropriate;
- d) Specifying when and where necessary to employ erosion control blankets or mats;
- e) Specifying locations for silt fence and construction barrier fence; and,
- f) Specifying catch basin inlet protection during construction, clean up and maintenance and post-construction (operational) system operation and maintenance.

11. Prior to and during construction, erosion control measures shall be installed and maintained in accordance with EPSC plan established with this permit approval. At a minimum, the project EPSC plan shall:

- a) Identify the contractor who is responsible for installing, implementing, and maintaining the EPSC plan and measures;
- b) Identify the on-site contractor who is responsible for the day-to-day monitoring, oversight, and inspections required in the EPSC plan;
- c) Assure that any amendments to the project EPSC plan are filed with the Department of Public Works and the Department of Planning & Zoning;
- d) Provide that the erosion control measures remain in place until vegetation has become established on all disturbed surfaces and clearly identify under what conditions final site stabilization has occurred; and,
- e) Provide a process whereby the Department of Public Works and/or the Department of Planning & Zoning participate in the final site stabilization program.

C. Major Impact, Subdivision, and/or Planned Unit Development projects:

1. Each EPSC Plan shall address:

- a) *Construction Access Route* – Construction activities and land disturbing activities subject to the provisions of this Division shall require the installation of at least one stabilized temporary construction access. Construction site access routes regulated under this Division shall be clearly delineated of the project site plans and subject to approval by the Department of Public Works.
- b) *Winter Site Stabilization*- All land disturbance activity where practical shall be scheduled for completion no later than October 15 and temporary site stabilization

achieved no later than October 15. By the end of the growing season, perennial cover shall be established (seed and mulch to be applied by October 1) and non-vegetated protection measures shall be installed by October 15 and continuously thereafter if land disturbance activities occur after the growing season. In the event land disturbance activities are planned to occur between the dates of October 15 and April 15, approval for such work may be granted by the Department of Public Works, following the submittal and approval of a Winter Construction Erosion Control Plan consistent with the Vermont Standards & Specifications for Erosion Prevention & Sediment Control, 2006, and as amended.

c) *Temporary Site Stabilization* - Soil may be exposed for a maximum of 48 hours. All denuded and disturbed areas must receive temporary stabilization in conformance with this section by implementing soil covering BMPs such as, but not limited to; mulching, straw matting, plastic covering, sodding, etc. Construction and land disturbance activities shall be planned and sequenced to limit the amount of exposed area and to avoid occurring during rainy periods. Clearing limits shall be clearly marked on-site and kept as small as possible.

d) *Protection of Adjacent Properties* – All sediment from land disturbing activities shall be kept on site through the use of cover practice BMPs, structural BMPs and other appropriate construction management measures. Where possible, a vegetative buffer strip shall be preserved and maintained around the site boundary. All soil stock piles on site shall be placed as far as possible from any and all drainage ways including storm drains systems and roadside ditches and swales. All soil stockpiles on site shall be placed within the development envelope and outside of any natural area buffers (wetlands, riparian, etc.) All soil piles on site shall also be covered with mulch, plastic or some other suitable cover practice BMP until the soil is either used or removed from the site. Silt fencing and/or other perimeter controls shall be implemented to inhibit offsite sediment transport. Where possible, a vegetated buffer strip shall be maintained in front of silt fence or its equivalent.

e) *Maintenance* – All construction access routes, cover practice BMPs and structural BMPs shall be inspected weekly, and immediately following each rain

event causing runoff to ensure they are functioning properly. Any maintenance that is required to ensure the proper operation and performance of these BMPs shall be completed immediately.

f) *Landscaping and Final Stabilization Requirements* – Any area of land for which the natural vegetative cover has been either partially or wholly cleared or removed by land disturbance activities subject to this Division shall be revegetated within 21 days from initial disturbance for such clearing and construction. Additionally, the following requirements apply until such time as

final site stabilization has been achieved:

- i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over 90% of the seeded area.
- ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
- iv) Any and all accumulated sediments transported off site and deposited onto City Streets, and Sidewalks shall be routinely and frequently swept up and properly disposed of so as to prevent their discharge into stormwater and/or the City's Public Sewer.

2. Plan Requirements

The Erosion Prevention and Sediment Control Plan shall be prepared by or under the direction of a licensed professional engineer, a certified professional in erosion and sediment control (CPESC), or a certified inspector in erosion and sediment control (CIESC) and demonstrate conformance to the erosion and sediment control requirements and criteria contained in Section 26-3-15 C of this Division. All erosion and sediment control devices must be installed and stabilized before the start of construction. The Erosion Prevention and Sediment Control Plan shall contain both narrative and map(s) that clearly provide the following information:

- a) *Contact Information* – The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- b) *General Description* - A general description of the project including a map identifying the location of the property and parcel boundaries.
- c) *Natural Resources* - A map of existing on site natural resources including soil type (including porosity and erodibility factor (k-factor) if available), types and location of vegetative covering, natural drainage ways, brooks, streams, ponds, wetlands and other surface waters (including intermittent streams) and associated buffer zones, including any surface waters within 300 feet from the site.
- d) *Grading Plan* – A grading plan at a minimum scale of 1" = 40'. The grading plan shall include existing and proposed contours at maximum intervals of five feet. The grading plan shall also include the location of the temporary construction entrance and any soil stockpiles that will be maintained on the site.
- e) *Infrastructure* - A map identifying existing infrastructure both on and adjacent to the site, including roads, driveways, culverts, drainage structures, roadside

ditches, etc.

f) BMPs - A description of each of the best management practices to be used on the site, and a map identifying the locations where each of the best management practices will be installed and maintained.

g) Maintenance schedule for each BMP.

D. All other Projects, Conditions, or Activities

The Erosion Prevention and Sediment Control Plan shall consist of a completed Small Project Erosion Prevention and Sediment Control form and shall:

1. Indicate disturbance limits and the protection of existing vegetation that is to be preserved.

2. Depict clearing and grading limits, which shall be kept to the minimum practicable.

3. Address diverting the flow of runoff away from cleared and graded areas.

4. Address temporary and permanent stabilization of the site.

5. Address the protection of any channels or drainage courses that may become enlarged or destabilized from erosion.

6. Address the protection of any stormwater catch basin that may receive stormwater from the site during and after construction, and

7. Indicate the best management practices that shall be implemented consistent with achieving the general performance criteria of section 26-3-15 C

Sec. 26-3-16. Review and Approval

The Department of Public Works will review each Erosion Prevention and Sediment Control Plan to determine its conformance with the provisions of this regulation, unless such review is explicitly exempted within this Article. Within 30 days after receiving a complete plan and application, the Department of Public Works, shall in writing:

A. Approve the plan;

B. Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Division, and require that the issuance of the Zoning and/or Building Permit be subject to these conditions; or

C. Disapprove the plan, indicating the reason(s) and procedure for submitting a revised plan.

Sec. 26-3-17. Access to Land Disturbance Activities

The Department of Public Works shall be permitted to enter and inspect any land disturbance activities subject to regulation under this Division as often as may be necessary to determine compliance with this Division.

Sec. 26-3-18. Inspection Requirements

A. Except as provided for in item C below, the Department of Public Works shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion Prevention and Sediment Control Plan as approved. To obtain inspections, the applicant or their agent shall notify the Department of Public Works at least two working days before the following:

1. Start of construction.
2. Installation of sediment and erosion control measures.
3. Completion of site clearing.
4. Completion of rough grading.
5. Completion of final grading and close of construction season.
6. Completion of final landscaping.

B. Major Impact, Subdivision, and/or Planned Unit Development projects will generally require separate site visits for each of the foregoing items a) – f). All other projects, conditions, or activities may entail consolidated site visits for two or more of the foregoing items depending on the size of the project, condition, or activity.

C. For Major Impact, Subdivision, and/or Planned Unit Development projects, the Department of Public Works may allow or require that the applicant or their agent provide a written certification from a professionally licensed engineer, a certified professional in erosion and sediment control (CPESC), or a certified inspector in erosion and sediment control (CIESC) certifying compliance to the Erosion Prevention and Sediment Control Plan as approved.

D. For all other projects, activities, or conditions, inspections shall be conducted by the Department of Public Works as noted in this section.

E. In any event, the applicant or their agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion Prevention and Sediment Control Plan.

DIVISION 4. STORMWATER MANAGEMENT

Sec. 26-3-19. Applicability

This Division applies to all properties within the jurisdictional area of this Chapter, unless specifically exempted or waived by Section 26-3-22.

Specifically, this Division applies to any land disturbance activities within the jurisdictional area of this Chapter that result in greater than or equal to ½ acre of clearing,

grading, construction or land disturbance activity, and creates greater than or equal to ½ acre of impervious surface, unless otherwise exempted or waived under Section 26-3-22.

Sec. 26-3-20. Prohibitions

No person subject to this Article as defined by section 26-3-1, shall cause, allow or permit the discharge, connection and/or release of stormwater runoff to a public sewer or natural outlet unless such discharge, connection and/or release is incidental to the implementation of an approved Stormwater Management plan under this Division.

Sec. 26-3-21. Permits

Unless exempted under Sec. 26-403, no person shall be granted a Zoning Permit, Building Permit, Excavation Permit or any other approval for any project, condition or land disturbance activity regulated under this Division without the written approval of a Stormwater Management Plan by the Department of Public Works.

Sec. 26-3-22. Exemptions and Waivers

The discharge, connection and/or release of stormwater from any project, condition or land disturbance activity regulated under this Article is prohibited except as provided in Section 26-3-1 D or E and/or any land disturbance activity that creates less than ½ acre of impervious surface.

Sec. 26-3-23. Stormwater Manual

The stormwater manual as referenced in this Article refers to the technical analysis and design standards specified in the Vermont Stormwater Manual (Volumes I and II), latest revision and to the City of Burlington, Department of Public Works Stormwater and Erosion Control Specifications, Standards and Management Practices Design Manual.

Sec. 26-3-24. Stormwater Treatment Standards and Treatment Practice Design Criteria

The following stormwater treatment standards may apply to those projects, conditions and activities regulated under this Division and where applicable, shall be applied as required and outlined in the Vermont Stormwater Manual, (Volumes I and II), latest revision, to the maximum extent practicable as determined by the Director of the Department of Public Works.

1. Water Quality Treatment Standards
2. Channel Protection Treatment Standards
3. Groundwater Recharge Treatment Standards
4. Over bank Flood Protection Treatment Standards

5. Extreme Flood Protection Treatment Standards and, where applicable
6. Hydraulic Capacity Standard. In instances where discharges, connections and/or releases of stormwater are to City public sewers, infrastructure, and/or facilities, the applicant must make demonstration to the satisfaction of the Director at the Department of Public Works that the public sewer, infrastructure and/or facility has the hydraulic capacity to accommodate the anticipated stormwater runoff flows and volumes without burdening or creating an adverse impact on such infrastructure and facilities. If the hydraulic capacity analyses shows city infrastructure will be exceeded and/or burdened, the applicant may seek to mitigate such impacts through flow reduction, retention, detention, infiltration and/or water re-use stormwater management practices upon the approval of the Director on a case by case basis.

Sec. 26-3-25. Use of Alternative Stormwater Management Practices

The City recognizes that in some instances the ability to strictly meet the requirements of Sec. 26-3-24 Stormwater Treatment Standards and Treatment Practice Design Criteria may not be possible, feasible or desired in an urban landscape. As such the City encourages the use of alternative management practices and technologies as a way to both satisfy the requirements of this Division, to give flexibility to design and to encourage Green Infrastructure (green), Best Management Practices (BMP), Low Impact Design (LID) or other innovative practices that in the opinion of the Department of Public Works satisfies the requirements of this Division. Such practices include but are not limited to, green roofs, alternative detention practices, water reuse, including stormwater use, infiltration practices, including pervious and porous pavements and pavers. See Burlington's Guidelines for Stormwater Pollutant Reduction, September 1999 and as may be amended and EPA "Managing Wet Weather with Green Infrastructure Action Strategy", January 2008, and as amended.

Persons subject to this Division may utilize alternative stormwater management Practices as a means of meeting the standards established in Sec. 26-3-24. Persons seeking to employ any alternative practice must provide descriptions and standard details as well as a make a demonstration that such alternative practice meets or exceeds the standards of Sec. 26-3-24, that the standards of 26-3-24 are not applicable, and/or the alternative practice mitigates the impact that Sec. 26-3-24 seeks to address, subject to the Department of Public Works for review and approval. A maintenance and a installation guide shall also be provided to ensure the materials are properly installed. When considering any alternative stormwater management practice, the Department of Public Works will evaluate and determine if such practice is consistent with the City MS4, CSO and Use of Public Sewers permits and ordinances, including this Chapter. Where such management practices are found to be consistent with or likely not to compromise the City MS4, CSO and Use of Public Sewers permits and ordinances, the Department of Public Works may grant their use on a case-by-case basis.

Sec. 26-3-26. Stormwater Management Plan.

A. Review and Approval

The Department of Public Works will review each Stormwater Management Plan to determine its conformance with the provisions of this Division, unless such review is explicitly exempted within this Division. Within 30 days after receiving a complete plan and application, the Department of Public Works shall in writing:

1. Approve the plan;
2. Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Division, and require that the issuance of the Zoning Permit and/or Building Permit be subject to these conditions; or
3. Disapprove the plan, indicating the reason(s) and procedure for submitting a revised plan.

B. Plan Requirements

The Stormwater Management Plan shall be prepared and signed by a licensed, professional engineer who shall verify and demonstrate conformance to the applicable water quality treatment standards and storm water management design criteria contained in this Division. The Stormwater Management Plan shall contain both narrative and map(s) that clearly provide the following information:

1. *Contact Information* - The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected and similar information on the persons charged with the responsibility of constructing, maintaining and managing such stormwater systems.
2. *Site Plan* - A map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment control facilities. The map will also clearly show proposed land use with tabulation of total lot size in acres, percentage of surface areas to be disturbed, percentage of existing and proposed impervious surfaces, drainage patterns, locations of utilities, limits of clearing and grading, and all easements, including those easements necessary for required maintenance of all stormwater treatment practices.
3. *Base Map* - A 1" = 200' topographic base map of the site which extends a minimum of 300' {See 5-7 (B)(3)} beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands, including associated buffer zones, and current land use including all existing buildings, utilities, roads, and significant natural and manmade features not otherwise shown.
4. *Calculations* - Sufficient engineering analysis to show that the proposed storm water treatment practices are capable of controlling runoff from the site in

compliance with this Division and the Vermont Stormwater Manual. The analysis shall also include hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the Department of Public Works Design Manual with specific emphasis on demonstrating how post-development flows are maintained for discharges to the MS4 and/or where applicable demonstrating how post-development flows are detained for discharges to the CS.

5. *Soils Report* - A soils report that addresses the hydrologic properties of onsite soils shall be submitted. The soils report and accompanying information shall be based on the VSMM (latest edition) or the Underground Injection Control Rule, Chapter 11 (latest edition) which ever is applicable.
6. *Operation Maintenance and Repair Plan* – The design and planning of all stormwater management facilities shall include detailed operation maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that needs to be maintained. The operation and maintenance and repair plan shall also include:
 - a) *A Landscape Plan* – The applicant must present a detailed plan for the management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetation cover is preserved.
 - b) *Maintenance Easements* – Prior to the issuance of any permit that has a stormwater management facility as a requirement, the applicant or owner of the site must execute a maintenance easement that shall be binding on all subsequent owners of land served by the stormwater management facility. The purpose of the maintenance easement shall be to allow access to the stormwater management facility to perform maintenance as required by the maintenance agreement noted in item c) below. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City, or its contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Section. The property owner shall record such easement, in a form and format approved by the City Attorney, in the City Land Records with the City Clerk's Office.
 - c) *Maintenance Agreement* – The applicant must execute a maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure. The maintenance agreement shall be recorded in the land records before the issuance of a Building Permit and shall specify the required maintenance for all stormwater treatment practices, along with a maintenance schedule specifying when and how often maintenance is performed on the stormwater treatment practices and a demonstrated financial ability to perform such maintenance. Such agreement shall be in a form and

format approved by the City Attorney, and be filed in the City Land Records. The owner is responsible for maintenance of stormwater management facilities; however, the City may accept dedication of existing or future stormwater management facilities for public maintenance and inspection.

d) *Maintenance Inspections* - All stormwater management facilities must be inspected by the Department of Public Works no less than once annually to identify maintenance and repair needs and to ensure compliance with the requirements of this Division. Any identified maintenance and/or repair needs found must be promptly addressed by the responsible party. The inspection and maintenance requirement may be increased as deemed necessary by the City to ensure proper functioning of the stormwater management facility.

e) *Records of Installation and Maintenance Activities* - Parties responsible for the inspection, operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs and shall retain the records for at least 5 years. These records shall be made available to the Director upon request and/or as specifically outlined in the maintenance covenant.

f) *Failure to Maintain Practices* - If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City, after proper notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition and/or shall handle the matter as a violation per Article 4, Penalties and Enforcement, of this Chapter.

7. *Landscaping and Stabilization Requirements* – Any area of land for which the natural vegetative cover has been either partially or wholly cleared or removed by land disturbance activities subject to this Division shall be revegetated within (10) business days from the substantial completion of such clearing and construction. Additionally, the following requirements apply until such time as final site stabilization has been achieved:

a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over 90% of the seeded area.

b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

d) Any and all accumulated sediments transported off site and deposited onto City Streets, and Sidewalks shall be routinely and frequently swept up to prevent their discharge into stormwater and/or the City's Public Sewer.

Sec. 26-3-27. Access to Stormwater Treatment Practices

The Department of Public Works shall be permitted to enter and inspect any land or premises where stormwater treatment practices are being, or have been constructed subject to regulation under this Division as often as may be necessary to determine compliance with this Division.

Sec. 26-3-28. City Inspections During Installation and Construction

The applicant must notify the Department of Public Works or their designee in advance before the start of construction and/or installation of any stormwater management system to alert the Department of Public Works so they may arrange to make regular inspections of the construction of stormwater treatment practices and/or connections to any City infrastructure. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions and shall be subject to the enforcement provision of Article 4 of this Chapter. No additional work shall proceed until any violations are corrected and all work previously completed has received approval from the Department of Public Works.

In lieu of the requirements outlined in this section, the Department of Public Works at their discretion may allow or require that the applicant or their agent provide a written certification from a professionally licensed engineer certifying compliance to the Stormwater Management Plan as approved.

DIVISION 5. STORMWATER SYSTEM USER FEES

Sec. 26-3-29. Establishment of Stormwater User Fees

A. A user fee based on an Impervious Surface Unit (ISU) shall be imposed on every owner of non-exempt developed property within the City. An ISU shall equal 1,000 square feet.

B. The City Council shall have the authority to set and modify the user fee rates so that the total revenue generated by said charges, and any secondary sources of revenue, shall be sufficient to fund the City's stormwater program.

C. The City Council shall establish by resolution the monthly rate for each ISU. The monthly user fee for a specific property is determined by multiplying the ISU rate times the number of ISUs on the property.

D. The only exempt properties under this Division are those included within the limits of a railroad track right-of-way (property on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located shall not be exempt) and those included within the limits of a public road right-of-way.

Sec. 26-3-30. Establishment of ISUs:

A. The following residential property types shall be allocated ISUs based on the group averages and shall be charged a monthly flat fee based on the group average.

1. Detached single family home (not including mobile home) = 2.67 ISUs
2. Two-unit home = 2.65 ISUs
3. Three-unit home = 3.06 ISUs

B. The ISUs allocated to all other property types shall be determined as follows:

1. The amount of impervious surface on each parcel shall be calculated in square feet. That total shall be converted to ISUs for every 1,000 square feet and rounded to the nearest hundred (i.e. a commercial property with 4,780 square feet would have 4.78 ISUs)..
2. The user fee would be based on the number of ISUs (i.e. commercial property with 4.78 ISUs would pay the monthly user fee times 4.78).
3. Owners of property subject to this subsection shall have the right to contest, in writing to the Director, the number of ISUs allocated to their property. In such event, an onsite inspection and calculation of impervious surface shall be conducted jointly by the property owner (or representative) and the Director to determine the number of ISUs. Such determination shall be made by the Director, and such decision may be appealed to the Public Works Commission within 15 days of the determination.

Sec. 26-3-31. Credits

A. Institutional properties with impervious surface within a publicly owned non-traditional separate MS4 system shall receive a credit on their stormwater user fee. This credit applies only to impervious surfaces generating stormwater runoff that receives detention and water quality treatment within the boundaries of the publicly owned non-traditional separate MS4 system.

B. Properties not subject to a flat fee may be eligible for a credit on their stormwater user fee. Credits shall be available to properties that reduce the volume, or improve the water quality, of stormwater runoff. The degree of credit shall be based on the degree of reduction in stormwater runoff volume and/or the degree of water quality improvement of stormwater runoff. No credit shall exceed 50% of the stormwater user fee, and in no event shall any credit result in a stormwater user fee below the flat fee for a single family home. Credits shall be reviewed and assessed by the Director based on the rules and procedures contained in the Stormwater User Fee Credit Manual. Any award of credit shall be conditioned on continuing compliance with the City's design and performance standards as stated in the Manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. The Director may revoke a credit at any time for non-compliance by providing thirty (30) days written notice of a non-complying condition and intent to revoke the credit to the property owner. If the non-compliance is not cured within the thirty (30) day period, the Director shall eliminate the credit. A property owner may appeal the Director's determination regarding credit revocation to the Public Works Commission within 15 days of the determination.

Sec. 26-3-32. Expenditures.

A. The user fees, as well as any secondary sources of revenue, shall be used to fund the City's efforts to manage stormwater. Acceptable expenditures include, but are not limited to, capital construction, maintenance and operations, engineering and planning, regulation and enforcement, water quality programs, special services, administration and management, coverage requirements, reserve funds, and miscellaneous overhead costs.

ARTICLE 4. PENALTIES & ENFORCEMENT

.Sec. 26-4-1. Enforcement Remedies

The City of Burlington, by and through its authorized agents, shall have the authority to enforce the provisions of this Chapter, and any orders, violation notices, or enforcement orders issued hereunder, and may pursue all civil and criminal remedies in connection with any violation hereunder.

Any person violating any of the provisions of this Chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

Any industry found convicted of a violation of the provisions of this Chapter may have its disposal authorization terminated or suspended by the public works Director

A. Remedies not Exclusive

The remedies set forth herein are not exclusive of any other remedies available, including criminal prosecution, under any applicable federal, state or local law. Election of one remedy shall not preclude pursuing other remedies and nothing herein shall prohibit the City from seeking multiple remedies. Election of remedies shall be at the discretion of the Designated Enforcement Officer.

B. Judicial Bureau Municipal Civil Complaint Ticket

Pursuant to 24 V.S.A., Chapters 59 and 61 and 4 V.S.A., Chapter 29, a Designated Enforcement Officer may commence prosecution in the Judicial Bureau for any violation of this Chapter by serving two copies of a municipal civil complaint ticket either in person or by first class mail on the alleged offender, and thereafter promptly filing the original with the Judicial Bureau. The issuing officer shall follow the procedure set forth by the Judicial Bureau for municipal complaint tickets. The first offense ticketed for a violation within a 12 month period shall be punishable by a fine of two hundred dollars (\$200.00), the waiver fee for which shall be one hundred dollars (\$100.00); a second offense ticketed for the same violation within a 12 month period shall be punishable by a fine of four hundred dollars (\$400.00), the waiver fee for which shall be two hundred dollars (\$200.00); a third offense ticketed for the same violation shall be punishable by a

fine of five hundred dollars (\$500.00), the waiver fee for which shall be three hundred dollars (\$300.00). The fourth or subsequent offense within a 12 month period shall be a criminal offense punishable pursuant to § 1-9 of this Code of Ordinances.

C. Other Enforcement Remedies Generally; Fines, Injunctive Relief

1. Expenses for restoration. In addition to any other penalty authorized by this section, any person, partnership, or corporation found to have violated any of the provisions of this Chapter shall be required to bear the expense of the restoration required to abate the violation.
2. Injunctive Relief - An action, injunction, or other enforcement proceeding may be instituted by the City to prevent, restrain, correct, or abate any violation or activity causing a violation. The relief sought may include the right to enter onto private property to abate or correct the violation, to restrain any activity that would create further violations, or to compel a person or persons to perform abatement or remediation of the violation; and to seek damages for all costs, including reasonable attorney's fees, incurred by the City in pursuing and obtaining such relief. In addition to any other remedies authorized in law or equity, the City may seek an order specifically requiring:
 - a) The elimination of illicit connections and/or non-storm water discharges to the MS4;
 - b) The discontinuance of practices, activities, or operations that lead to violations of this Chapter;
 - c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - d) The implementation of source control or treatment through the use of best management practices;
 - e) The performance of monitoring, analysis, and reporting.
3. Offsite remediation. In place of fines, any person, partnership, or corporation found to have violated any of the provisions of this Chapter may perform offsite stormwater and/or erosion control remediation to improve existing stormwater and/or erosion control problems elsewhere in the city. This option shall require the written agreement of the person, partnership, or corporation found to have violated the provisions of this Chapter, the property owner of the offsite remediation site, and the city.

D. Stop Work and Abatement Orders

In the event that any person holding a Zoning Permit, Building Permit or approval under any regulation or ordinance of the City of Burlington, violates the terms of this Chapter or alters a site in such a manner as to adversely affect the public health, safety or welfare, the Director or Designated Enforcement Officer may issue a Stop Work and/or Abatement Order.

December 9, 2008



City of Burlington, VT
149 Church Street, 3rd Floor
Burlington, VT 05401
Phone: (802) 865-7144

www.burlingtonvt.gov/plan

TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
Sarah Morgan, Planner
DATE: September 24, 2024
RE: Details Related to Upcoming Planning Projects and Zoning Amendments

Upcoming Planning Projects

Planning Projects Managed by the Office of City Planning

planBTV: New North End

The City of Burlington's Office of City Planning, in partnership with the CCRPC, has begun the *planBTV: New North End* planning process. The objective of this project is to establish a long-term vision for Burlington's New North End neighborhoods, guiding future growth and infrastructure investments to create a vibrant, welcoming, accessible, and sustainable collection of distinct districts and neighborhoods. *planBTV: New North End* will involve data-driven analysis and City-led public engagement, ensuring that the community's vision and values are integral to the planning process.

preserveBTV: Historic Preservation Plan

The City of Burlington's Preservation Plan, *preserveBTV*, will be a citywide visioning document, identifying priorities for preservation that will enable sustainable, long-term use of the city's historic structures. Managed by the Office of City Planning in collaboration with the Department of Permitting & Inspections, *preserveBTV* will include an assessment of the current historic districts within the city, a review of the framework for historic preservation within the city, a list of best practices for protecting the city's historic resources, and policy and non-regulatory recommendations. Once completed, the *preserveBTV* will be integrated into the municipal development plan, *planBTV*, and inform updates to the Comprehensive Development Ordinance (CDO).

planBTV: Burlington's Comprehensive Plan

Office of City Planning Staff is in the early stages of preparing for Burlington's Comprehensive Planning process. Staff hopes to formally begin this process in early 2025.

Additional Citywide Plans Supported by Planning Staff

Open Space Plan

Burlington's Department of Permitting & Inspections, in collaboration with Parks & Recreation, City Planning, and the Conservation Board, plans to address the management and resiliency of Burlington's urban forest and open spaces through the development of a comprehensive Open Space Plan. The City has pre-determined that one of the key results of this plan will include an update to the City's Tree Ordinance, which was identified as in need of revision by *planBTV*.

2024 *planBTV* Walk Bike Plan Update

The City of Burlington's Department of Public Works (DPW), in partnership with the CCRPC, is preparing an update to the existing 2017 *planBTV* Walk Bike Plan. This action-oriented document will provide a list of projects the City will prioritize in coming years. The goal is to identify and prioritize projects which will offer the greatest benefits to public safety and have community support. This will be done as dynamically as possible so this information and prioritization can evolve and grow as data changes. The *planBTV* Walk Bike Action Plan will be built through data-driven analysis and public engagement targeted specifically at underserved populations. The result will be a clear identification and prioritization of specific projects, programs, and policies that DPW should focus on implementing in the coming years. This document will support the City in applying for future rounds of Safe Streets for All (SS4A) or other grant funding, increasing active transportation mode share, and providing a safe and accessible active transportation network for all ages and abilities.

Zoning Amendments

Current Amendments

- **ZA-24-03: Emergency Shelters**

This amendment brings emergency shelter standards in the CDO into compliance with the current statutory standards.

Status: Burlington City Council voted to refer this amendment back to the City Council Ordinance Committee during its meeting on September 24, 2024.

- **ZA-24-04: Neighborhood Code 2A**

This amendment modifies the residential zoning district standards to facilitate additional housing types and addresses a range of topics not addressed in ZA-24-02

Status: Following discussions on September 11th and 16th, the City Council Ordinance Committee bifurcated ZA-24-04 into two parts, and. The first part of Neighborhood Code 2A

- **ZA-25-01: Overdose Prevention Centers**

The proposed amendment establishes a definition and use standards for Overdose Prevention Centers, a use enabled by 18 V.S.A. § 4254.

Status: Waiting for direction from the Administration.

Future Amendments

- **Planned Unit Developments (PUDs)**

Modifications to the PUD standards, including the consideration of a threshold for lot/project size in the Residential districts, as well as development intensity, permitted uses, and other topics as identified.

- **SEID Green Stormwater Standards**

Water Resources has identified challenges related to the types of GSI required in SEID. This amendment will revise GSI standards to be more flexible.

- **Urban Reserve**

The Community Sailing Center has requested to amend the Urban Reserve district to make small boat storage an allowed use in the Urban Reserve. The goal is to resume the Community Kayak and Paddle Program that was ended with the implementation of the early phases of the Moran project.

- **Neighborhood Code Part 2-B**

A continuation of the Neighborhood Code amendments aimed at enabling neighborhood-scale housing options. Part 2-B covers the following topics:

- Flag Lot and fee-simple
- Cottage Court standards, including site and lot dimensions, frontage, access, development intensity, open space, and other topics as identified
- Townhouse and fee-simple duplex standards, including site, lot and building dimensions, frontage, access, development intensity and other topics as identified

- **Inclusionary Zoning**

An amendment that would address up to five core IZ topics, and potentially some more technical changes. The five core topics are as follows:

- Creating more flexibility in using the off-site option
- Allowing PIL for any IZ above a baseline 15%
- Creating flexibility in tenure mix in large projects
- Eliminating the 25% IZ tier
- Increasing the PIL and instituting an annual PIL adjustment methodology

- **University Road**

Map amendment to rezone parking lot in RL area to Institutional to allow for a higher lot coverage and therefore allow for UVM to retain already-completed roadway improvements.

- **Administrative Waivers**

An amendment addressing standards in the Downtown Form Code for which there is currently little to no flexibility. Such waivers are often necessary responses to on-the-ground conditions in areas regulated by form

codes. Examples include parking inside/rear setbacks, building occupation in frontage zones, permitted areas of blank wall and others.

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