

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur*

Special Meeting of the Burlington Planning Commission with the City Council Ordinance Committee

**Wednesday, October 30, 2019, 6:30 P.M.
Contois Auditorium, City Hall, Burlington**

AGENDA

I. Agenda

II. Public Forum- Time Certain 6:30 p.m.

III. Proposed CDO Amendment: ZA-20-03 Accessory Dwelling Units

The Planning Commission and City Council Ordinance Committee will continue discussing a proposed zoning amendment related to Accessory Dwelling Units (ADU's). This amendment comes as a result of the Mayor's Housing Summit and subsequent policy reform recommendations. Attachments to this agenda include:

- Proposed ZA-20-03 amendments on page 2.
- A memo transmitted to the City Council regarding Housing Policy Reforms on page 9, and additional information can be found online at <https://www.burlingtonvt.gov/BTV-housing-policy>.

Staff Recommendation: Discuss proposed amendment and provide direction to staff on any additional modifications. Approve municipal bylaw amendment report and warn for public hearing.

IV. Proposed CDO Amendment: ZA-20-04 Minimum Parking

Staff will introduce a proposed amendment related to the minimum requirements for new parking in selected areas of the city. This amendment comes as a result of the Mayor's Housing Summit and subsequent policy reform recommendations. Information related to this item is included in the agenda packet on page 28.

Staff Recommendation: Discuss proposed amendment and provide direction to staff on additional information needed on this topic.

V. Commissioner Items

- a. Dates for additional Joint Committee meetings

VI. Communications

- a. Communications are enclosed in the agenda packet beginning on page 32.

VII. Adjourn

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505. Written comments on items may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401, or at mtuttle@burlingtonvt.gov

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TO: Burlington Planning Commission
City Council Ordinance Committee
FROM: Meagan Tuttle, Principal Planner, City Planning & Ian Jakus, Housing Projects & Policy Specialist, CEDO
DATE: October 25, 2019
RE: Proposed CDO Amendment ZA-20-03: Accessory Dwelling Units

Overview & Background

Accessory dwelling units (ADUs) are efficiency or 1-bedroom apartments located within or on the same property as a single-family, owner-occupied home. ADU's are often located above a garage, in a basement, or as a backyard cottage, and have been utilized widely in cities across the US, and to some degree here in Burlington, as a tool for older adults to remain in their homes as they age, to create housing for an elder or a dependent, and provide homeowners with a way to offset housing costs.

In 2015, the City Council adopted the *Housing Action Plan*, which contained 22 strategies for building a more affordable, inclusive, livable, walkable, sustainable, and vibrant Burlington. Among these strategies was a call for a review of Accessory Dwelling Units in the city, to "evaluate the consequences of incentivizing this kind of construction and to establish clear protections that prevent abuse of this type of unit." As a result, the Community & Economic Development Office and Planning & Zoning department collaborated to prepare a review current ADU creation, policies, and best practices, and offered a series of recommendations for policies and programs to support the creation of more ADUs. This report was reviewed by the City Council's CDNR Committee, who supported the City and partners advancing the report's recommendations.

In April 2019, Mayor Weinberger announced a plan to convene a Housing Summit and advance work to bring focus, urgency, and resolution to five key areas of unfinished business from the *Housing Action Plan*. Reforming local zoning to be more permissive of the creation of ADU's was one of these key areas. Both in the preparation of the City's *Review of Accessory Dwelling Units*, as well as in conversations associated with the Housing Summit, the city has heard overwhelming support from residents and stakeholders about the value of ADU's and the importance of boosting their creation both from a regulatory perspective and through technical and design assistance. The framework for amending the city's zoning ordinances to encourage the creation of ADU's was included in a resolution unanimously supported by the City Council on October 7, 2019. The resolution referred this item to a Joint Committee of the Planning Commission and City Council's Ordinance Committee.

The enclosed zoning amendments are aimed at improving the regulatory framework for creating ADU's. Separately, CEDO and Homeshare VT are working together on a 3-year pilot program to facilitate the development of accessory apartments to serve low-income and senior housing needs. Using a \$75,000 state Housing Revenue Fund grant, the program includes an outreach and educational campaign, offers technical assistance to homeowners, will develop standard designs for ADU's, and perform marketing, screening, and matching services for prospective tenants and homeowners.

More information about Accessory Dwelling Units in Burlington, and the proposed amendment can be found online at: <https://www.burlingtonvt.gov/mayor/housingpolicy/adu>

Recommended Amendment Details

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement & Summary

The purpose of this amendment is to encourage the creation of accessory dwelling units (ADU's) throughout the city to support homeowners as they age in place, provide flexible options to help owners afford and better utilize available space within their homes, and to provide additional affordable housing options within existing neighborhoods.

This amendment modifies applicable ADU and other citywide general standards, including enabling ADU's as a permitted use in all zoning districts, creating an alternative maximum unit size and lot coverage waiver process, and eliminating the parking requirement.

Proposed Amendments

The following changes are proposed to the *Comprehensive Development Ordinance* in order to achieve these goals. These changes are detailed in the attached documents.

- Enable Accessory Dwelling Units as a permitted use for single-family homes in all zoning districts by eliminating *Sec. 5.4.5 (B)*, clarifying *Sections 5.3.4 (a) 2.A* and *5.3.4 (a) 2.C*, and deleting Accessory Dwelling Units from *Appendix A- Use Table*.
- Increase the maximum size for ADU's to accommodate their location on lots with smaller homes, by adding an alternative maximum size in *Sec. 5.4.5 (A)(2)*.
- Allow for a portion of the lot coverage associated with a detached ADU to be exempt based on a stormwater impact review provision within a new *Sec 5.2.3 (b) 10*, and noted in *Sec. 5.3.5 (a)*, in order to accommodate ADU's on smaller lots.
- Eliminate the parking requirement associated with an ADU by deleting *Sec.5.4.5(A)(4)* and enable stacked parking for ADUs within *Sec. 8.1.14*.
- Update the definition for ADU's to remove conflicts with the special provisions in *Sec.5.4.5*.

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).

Proposed Future Land Use & Density

The proposed amendment is intended to encourage the creation of ADU's on lots or within existing or newly constructed single-family homes throughout the city. Further, these changes are intended to remove barriers faced by owners of small homes and/or small lots who are presently unable to accommodate an ADU under the standards. Specifically, this amendment addresses the 2019 *planBTV* policy to "modify land development and/or building ordinances regarding ADU's and create a program to incentivize their creation through technical assistance, funding, and other means." This is important as ADU's enable new housing options that not only serve the city's changing demographics, but also conserve the existing scale, mass, and design characteristics of neighborhoods.

Impact on Safe & Affordable Housing

This proposed amendment furthers the City of Burlington and the State of Vermont's goals to expand the availability of safe and affordable housing. By encouraging the creation of ADU's, the city is meeting the spirit of *planBTV* to expand the range of housing options available to meet different and changing needs of households, including enabling residents to age in place,

augment household income to afford housing expenses, or secure new affordable housing in established neighborhoods of the city.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

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: City Staff, with support of City Council	Presentation to & discussion by Commission & Council Ordinance Cmte 10/15, 10/22, 10/30	Approve for Public Hearing	Public Hearing	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption
				Rejected

Excerpts of Article 5: Citywide General Regulations

Sec. 5.4.5 Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses:

Where there is a primary 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 an efficiency or one--bedroom apartment that is clearly subordinate to the primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than two adult occupants. 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 ~~De~~partment of ~~P~~ublic ~~W~~orks; and
2. The unit does not consist of more than 800 sq.ft. or 30 percent (30%) of the total combined habitable floorGross Floor Area of the building of the primary home and inclusive of the accessory dwelling unit, whichever is greater; and
3. Applicable setback and coverage requirements are met, except for properties with lawfully non-conforming lot coverage as provided for in Sec. 5.2.3 (b) 10; and
~~a.;~~
3. ~~One additional parking space which may be legally allocated to the accessory unit must be provided for the accessory unit; 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) Conditional Use Approval for Accessory Units:~~

~~If any of the following are also proposed, conditional use approval, as well as development review provisions of Article 6 shall be required:~~

- ~~1. A new accessory structure;~~
- ~~2. An increase in the height or habitable floor area of the existing dwelling;~~
- ~~3. An increase in the dimensions of any parking area;~~

(c) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent upon owner--occupancy of either the single-familyprimary 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 primary unit or in the accessory unit. If neither the primary unit nor the accessory unit is no longer 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.

Sec. 5.2.3 Lot Coverage Requirements

(a) *As written*

(b) Exceptions to Lot Coverage

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

(1)-(9) *As written*

(10) The DRB may grant an exemption from maximum lot coverage limits for up to 400 sq.ft., or 50% of the lot area occupied by an detached ADU, whichever is greater. 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 any stormwater mitigation improvements will not have undue adverse impact on adjacent properties or public rights of way based on the review of the DPW Stormwater Program Manager.

Sec. 5.3.4 Nonconforming Uses

(a) Changes and Modifications:

A nonconforming use may be changed to a conforming use pursuant to all applicable provisions of this ordinance. When a nonconforming use has been made conforming, it shall not be made nonconforming again.

Any change or modification to a nonconforming use, other than to full conformity under this Ordinance, shall only be allowed as specified below and shall require conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB.

1. *As written*

2. Nonconforming Residential Use:

A change or expansion of a non-conforming residential use may be allowed subject to conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB provided:

A. Such an expansion does not add any dwelling units except as may be permitted for adaptive reuse or residential conversion bonuses approved per the provisions of Sec. 4.4.5(d)(7) and for Accessory Dwelling Units per the provisions of Sec. 5.4.5;

B. Such an expansion does not increase the degree of non-conformity of any non-conforming structure; and,

C. In such cases where the non-conforming residential use is located in a zoning district where residential uses are generally permitted, expansion of a non-conforming residential uses into an existing and previously uninhabited attic or basement within the principle structure may be permitted subject to administrative review provided no additional dwelling units are created except for Accessory Dwelling Units per Sec. 5.4.5

93 **Sec. 5.3.5 Nonconforming Structures**

94
95 **(a) Changes and Modifications**

96 Nothing in this Part shall be deemed to prevent normal maintenance and repair or structural
97 repair, or moving of a non-complying structure pursuant to any applicable provisions of this
98 Ordinance.

99 Any change or modification to a nonconforming structure, other than to full conformity under
100 this Ordinance, shall only be allowed subject to the following:

- 101 1. Such a change or modification may reduce the degree of nonconformity and shall
102 not increase the nonconformity except as provided below.

103 Within the residential districts, and subject to Development Review Board approval,
104 existing nonconforming single-family homes and community centers (existing
105 enclosed spaces only) that project into side and/or rear yard setbacks may be
106 vertically expanded so long as the expansion does not encroach further into the
107 setback than the existing structure. Such expansion shall be of the existing
108 nonconformity (i.e. setback) and shall:

- 109 i) Be subject to conformance with all other dimensional requirements (i.e.
110 height, lot coverage, density and intensity of development);
111 ii) Not have an undue adverse impact on adjoining properties or any public
112 interest that would be protected by maintaining the existing setbacks; and,
113 iii) Be compatible with the character and scale of surrounding structures.

114 Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as
115 expanded.

116 Within all districts, and subject to the Development Review Board approval, detached
117 structures for the purpose of creating an ADU may be constructed on lots with legally
118 non-conforming lot coverage per Sec.5.2.3 (b) 10.

- 119 2. Such a change or modification shall not create any new nonconformity; and,
120 3. Such a change or modification shall be subject to review and approval under the
121 Design Review provisions of Article 3, Part 4.
122

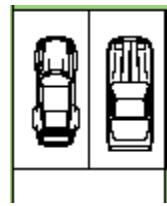
123 **Sec. 8.1.14 Stacked and Tandem Parking Restrictions**

124 Except as otherwise provided below, all parking facilities shall be designed so that each
125 motor vehicle may proceed to and from the parking space provided for it without the moving
126 of any other motor vehicle.

- 127 (a) Stacked or valet parking may be allowed if an attendant is present to move vehicles. If
128 stacked parking is used for required parking spaces, a written guarantee must be filed
129 with the City ensuring that an attendant will always be present when the lot is in
130 operation. The requirements for minimum or maximum spaces continue to apply for
131 stacked parking.

- 132 (b) Tandem Parking may be allowed for single family detached dwelling units, accessory
133 apartments, duplex dwelling units, and dedicated employee-only parking signed as such.
134 In no case shall more than 4 parking spaces (2 pairs) in total be provided in tandem on
135 any one lot.

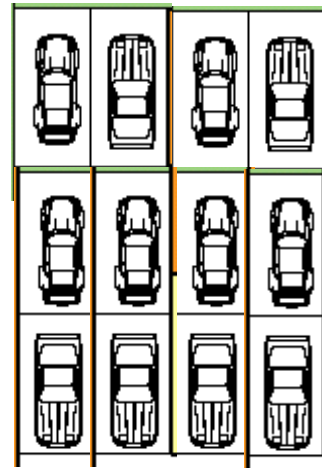
136 Stacked parking shall be allowed for single-family detached dwelling units and
137 Accessory Dwelling Units with no requirement for an attendant to be present



Normal



Tandem



Stacked

139 Excerpt of Article 13: Definitions

140

141 **Accessory Dwelling Unit or Apartment (ADU):** An efficiency or one-bedroom apartment that is
 142 clearly subordinate to a single-family dwelling, and has facilities and provisions for independent
 143 living, including sleeping, food preparation, and sanitation, ~~provided the unit does not exceed 30% of~~
 144 ~~the total habitable floor area of the single-family dwelling.~~

Excerpt of Appendix A- Use Table

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL / W	RM / W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL / W	RM / W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N ³⁰	N ³⁰	N	N	N ³⁰	N ³⁰	N ³⁰	N ³⁰	N ³⁰	N	N	N
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	N	N	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	N		
Attached Dwellings - Duplex	N	N ¹	N	N	Y	CU ²	Y	Y	N	N	N	N	N	Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	CU	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use ²⁶	N	N ¹	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N

TO: Burlington City Council

FROM: Meagan Tuttle, Principal Planner, City Planning
Chris Burns, Director of Energy Services, BED
Ian Jakus, Housing Projects & Policy Specialist
Scott Gustin, Principal Planner, P&I
David White, Director, City Planning
Todd Rawlings, Housing Program Manager, CEDO



DATE: October 2, 2019
RE: Proposed Housing Summit Policy Reforms

The enclosed memo offers background information to contextualize and address questions shared by the Council regarding each of the proposed housing policy reforms. Additional information about these policies is online at: <https://www.burlingtonvt.gov/BTV-Housing-Policy>

Additionally, the summary report for the June 2019 Housing Summit, including a summary of the participants' feedback and additional resource links can be found online at: <https://www.burlingtonvt.gov/mayor/about-the-housing-summit>.

Improving Energy Efficiency in Rental Housing

Policy Reform Goal

The goal of this reform is to strengthen the City's response to the "split incentive paradigm" and increase energy efficiency in rental housing, which will in turn improve the quality and comfort of rental units, lower tenants' utility costs, and help the city achieve its climate goals by reducing energy utilization and greenhouse gas emissions.

Proposed Reform

In order to achieve this goal, the following housing code reform is proposed:

- Amend the City's existing Time of Sale ordinance (ToS) to require weatherization improvements for rental housing units not only at the time a unit is sold, but as part of the minimum housing code that is enforced by the Department of Permitting & Inspections, which includes inspections of every property on a cycle that ranges from one to five years depending on the performance of the property.
- Utilize the list of applicable weatherization improvements currently found in ToS to apply to rental units with an energy intensity rating of greater than 50,000 BTUs per square foot.
 - Applicable improvements focus on the most cost-effective modern weatherization practices: insulation in exterior walls, open attics, hatches, ceilings, roof cavities, and rooms over unheated basements/exterior spaces; repair of leaks and insulation of heating/cooling ducts and hot water pipes; storm windows, functional weather

stripping on doors, and functional latches on all doors and windows; and sealing large gaps and holes where heated/cooled air easily escapes.

- Modify the cap on the dollar amount of investment in weatherization to a level that, while not unreasonably financially burdensome, is designed to maximize expected energy savings and occupant comfort, be consistent with best practices from other cold climate jurisdictions, eliminate the “cost effectiveness limitation” in the current Time of Sale Ordinance in favor of a more straightforward cost cap that reflects inflation and the real cost of these improvements, while also balancing the cost of required improvements with the amount of expected energy savings and a rational process to accommodate inspections and compliance.

Framing the Burlington Context

- Improving the energy efficiency of existing buildings is considered to be one of the most impactful efforts to implement the City’s Net Zero Energy (NZE) goal.
- Space and water heating are two of the biggest drivers of energy costs in our climate. Of rental units, 95% use natural gas for space heating and 85% do so for hot water. This means the most effective energy efficiency upgrades for existing units are weatherization (air sealing, insulation) and more efficient heating appliances.
- The “split incentive paradigm” occurs when the property owner is responsible for building weatherization and replacing heating/cooling systems but sees no direct benefit for doing so, while the tenant is responsible for paying the utility bill but has no control over weatherization and efficiency improvements. This paradigm impacts approximately 85% of Burlington’s rental units. Combined with a chronic 1-2% vacancy rate, tenants have few alternative options for more efficient units.
- While about 40% of the city’s rental housing units have undergone some weatherization using one of three available incentive programs, ToS only requires these improvements for approximately 90 of the city’s rental units each year. This is compared to approximately 1,000 rental units that are visited annually for minimum housing inspections.

FAQs about this Policy

Why doesn’t this proposal considering licensing, SmartRegs, or other impactful requirements for energy efficiency improvements?

- We have heard a lot about the need to carefully balance the “carrot” and the “stick” in order to ensure this policy change does not lead to large costs passed on to tenants, or standards so onerous that they result in the loss of housing units (i.e., by revoking a rental license temporarily or long-term). This proposal seeks to find a balance between the significant acceleration/uptake of weatherization improvements in rental housing, and more robust enforcement of these requirements, with those potential unintended consequences.
- Further, this reform leverages existing policies (ToS) and processes (minimum housing inspections), and does not require a massive investment of new resources to implement.
- As the City continues to roll out policies and programs to implement the NZE Roadmap, new energy efficiency standards could build off this program.

How do you ensure that the costs of improvements aren't just passed on to tenants?

- Energy efficiency and weatherization are the wisest dollar spent in terms of impact, but are the hardest to sell from a return-on-investment (ROI) perspective. Yet, we estimate that increasing efficiency of units could result in \$100-\$400 in annual energy savings to tenants, which is particularly important to the 60% of renter households that are cost-burdened.
- For this reason, the proposal will include a limit on the dollar amount of required improvements so that they may be spread out over time, and to ensure that there is a nexus between the investment and the energy savings to limit the potential cost impact that could be passed on to a tenant.
- For tenants of permanently affordable units or those who use Section 8 vouchers, there are limits to the costs that tenants pay that would provide protection against rent increases related to energy efficiency improvements.

Encourage Creation of Accessory Dwelling Units

Policy Reform Goal

The goal of this reform is to encourage the creation of Accessory Dwelling Units (ADUs) to support homeowners as they age in place, provide a flexible option to help owners continue afford their homes, and add additional affordable housing options within existing neighborhoods.

Proposed Reform

In order to achieve this goal, the following proposal builds on the recommendations that were presented in the City's 2018 ADU White Paper, which was supported by the Council's CDNR Committee. The proposed zoning reform includes:

- Allow ADUs for all existing and new single family homes in all zoning districts as a permitted use, and no longer require that an ADU be subject to conditional use review by the DRB. Some ADUs may still be subject to design review approval by the DRB.
- No longer require an ADU to have a dedicated parking space.
- Allow the ADU to be up to 30% of the combined finished area of the primary home and ADU, or up to a maximum size of 800 sq.ft., whichever is greater. The alternative maximum size is intended to remove the barrier faced by smaller homes throughout the city.
- Create a process by which the DRB can grant a waiver for an ADU to exceed the lot coverage limits if stormwater impacts are addressed. This waiver process is intended to address the barrier faced by smaller lots throughout the city that are already legally at or over their lot coverage limit.

Framing the Burlington Context

- ADUs have been legal in Burlington since statewide enabling legislation was passed in 2005. However, despite zoning policy reforms in 2008 to make ADUs more permissive, as of July 2019 only 45 ADUs have been legally permitted and ultimately constructed.
- The median single-family home size in Burlington is 1,500 sq.ft.; current zoning would enable up to a 625 sq.ft. ADU size for a home of this size. However, in some areas of the city,

such as Wards 3 and 7, the predominant single-family home size is much smaller, which would likely limit the maximum ADU size to just 400-550 sq.ft.

- Approximately 20% of single-family home lots in the city are less than 6,000 sq.ft., with around 10% that are smaller than 4,000 sq.ft. This means that in many areas of the city where existing single-family lots are near, or in some cases are already over, the 35-40% lot coverage limits, creating an ADU that in any way expands the property's impervious cover would not be permitted.

FAQs about this Policy

If the proposal incentivizes ADUs, how will the City ensure they are not all used as short-term rentals?

- Some ADUs may be used as short-term rentals—owners realize many similar benefits from ADUs and short-term rentals. However, property owners who wish to rent an ADU as a short-term rental will be required to meet the zoning requirements for a short-term rental (see details below). Most specifically, a short-term rental would be subject to conditional use review and would be required to provide a parking space. Further, if an ADU is converted to a short-term rental after it has been used as another form of housing, it would be subject to the requirements of the Housing Replacement Ordinance. Lastly, any ADU that is used as a short-term rental, along with meeting all of the above criteria, will continue to be required to be owner-occupied.

How can we help make creating an ADU more accessible to homeowners?

- Based on a 2017 survey of Burlington ADU owners, the top resources requested were technical assistance and a guide to ADU rules and the permitting process. The City and Homeshare VT received a grant to launch a pilot ADU Technical Assistance Program modeled after, and supported by, the successful ADU program in Brattleboro, VT. The program helps homeowners evaluate whether an ADU is right for them, the feasibility of creating one, and offers assistance on how to begin the process. Through this program, partners are further planning to create a design and assistance guide.
- The change to the permitting requirements will also aid in making an ADU more accessible. Another top reported concern from the 2017 survey was the complexity of the City's permitting process. It is intended that by allowing ADUs as a permitted use, rather than a conditional use, and by not mandating an on-site parking space, fewer applications will go before the DRB, thus reducing complexity, saving applicants time and permitting fees, and potentially narrowing the scope of physical improvements needed to create an ADU.

Creating a Regulatory Framework for Short-Term Rentals

Policy Reform Goal

The goal of this reform is to create a regulatory framework for short-term rentals that includes tiers for different types of rentals, and disincentivizes the most impactful uses in order to protect the city's housing supply. This reform seeks to limit the number of housing units that can be converted to short-term rental uses, and ensure that those conversions contribute to the City's efforts to

preserve and expand permanently affordable housing, while also preserving some flexibility for hosts to use their homes and earn income, as well as recognizing that some supply of short-term rentals benefits the Burlington economy. (See feedback from Housing Summit.)

Proposed Reform

In order to achieve this goal, the following zoning and housing code reforms are proposed:

- Create clear standards for short-term rentals that differentiate between a ‘bedroom(s) within a unit’ and a ‘whole unit’ short-term rental for zoning, rental registration, and minimum housing code requirements.
- Require all hosts of short-term rentals to apply for a zoning permit and register as a rental unit with the Department of Permitting & Inspections, meet minimum maintenance and fire safety standards consistent with those required by the State of Vermont, and remit state and local Rooms & Meals taxes.
- Expand the existing zoning standards for Bed & Breakfast to explicitly recognize ‘bedroom(s) within a unit’ short-term rentals, and continue existing standards as outlined:
 - Property must be the host’s primary residence. In residential zones, up to two rented rooms are permitted, while three or more rented rooms are reviewed under conditional use requirements. In mixed-use zones, up to five rented rooms are permitted.
 - Required to provide one parking space per rented bedroom in residential districts.
- While rental registration is proposed for all short-term rentals, continue the existing exemption from minimum housing inspections for the rental of one or two bedrooms within an owner-occupied home even when those rooms are rented as short-term rentals.
- Create a new ‘Whole Unit Short-Term Rental’ use within the zoning ordinance, that is considered a non-residential use, with applicable standards as outlined:
 - Host (owner or tenant) is required to be a resident of the property/building in which the rental is located. Whole unit rentals are proposed to be a permitted use in mixed-use zones, but a conditional use in residential and institutional zones.
 - Limit the total number of whole-unit rentals within a building, based on the number of units within the building:
 - 1 short-term rental within buildings containing 1-3 units (including ADUs)
 - 2 short-term rentals for buildings with 4-5 units
 - 3 short-term rentals in buildings with 6 or more units
 - Any building with 4+ short term rentals is considered to be a hotel
 - Have an overall limit on the number of short-term rentals on a lot, regardless of the number of buildings.
 - Require a parking space for each short-term rental unit in all zoning districts.
- Continue to apply the Housing Replacement requirements to any housing units converted to a non-residential use (i.e. whole-unit short-term rental). Housing replacement is not required when a new unit is constructed and initially permitted as a short-term rental.

- Continue the existing “temporary” standards in the zoning ordinance, which would exempt short-term rentals from zoning requirements for those rentals leased less than 10 consecutive and 30 total days within any 12-month period.

Framing the Burlington Context

Based on data from the City of Burlington, Host Compliance (HC), AirDNA, and AirBnB the following is intended to provide a snapshot of the short-term rental landscape in Burlington in 2019:

- 410 unique short-term rental listings across many platforms (HC). This represents approximately 2% of all housing units in the city. There was a 25% increase in short-term rentals between 2018-2019 (HC), and the total number doubled from 2016-2019 (AirDNA).
- AirDNA reports 66% of rentals are for the whole housing unit, and that 76% of listings were efficiency, one bedroom, or two-bedroom units.
- Presently, short-term rentals have been handled under the City’s zoning standards as a Bed & Breakfast or a hotel. However, it is estimated that 95% of these units are operating with no zoning permit. Additionally, it is unclear how many of these units have been subject to life safety inspections through the rental registration process.
- In a 2019 press release, AirBnb reported that Burlington was the #1 destination for their guests visiting Vermont in the summer 2019. Per Host Compliance, the average monthly revenue for a short-term rental in Burlington was \$2,700, at an average nightly rate of \$161 per unit; for a short-term rental to earn this amount of revenue, it is estimated to be rented for around 200 nights per year.
- The City collects a 2% Rooms & Meals tax on income from short-term rentals. In 2019, the City’s Housing Replacement fee for a 1-bedroom rental unit was \$7,930.
- AirBnB reported that 63% of Burlington hosts self-identify as women, and 31% self-identify as being 60 and older.

FAQs about this Policy

Why not consider an outright ban on short-term rentals?

- Many have expressed their support for short-term rentals as a flexible, low-barrier way for hosts to earn income to offset their cost of living, stay in their home, enable them to more efficiently use space within their home, or to find ‘mid-term’ tenants (i.e. to market an available bedroom to a traveling faculty, researcher, etc). This proposal intends to enable these benefits, while limiting the proliferation of entire units as short-term rentals.
- Others have noted the city-wide economic benefit of short-term rentals in bringing visitors to the city, and the ability for short-term rentals to serve as a more affordable alternative to traditional lodging. This proposal intends to enable some short-term rentals to balance this benefit, while limiting wide-spread impact on long-term housing options.

What impact does this policy have on renters? What benefits?

- The most significant benefit to renters is reduced competition for rental units by requiring the host to live on the same property as the short-term rental, and by limiting the total number of rentals in each building. This limits the potential for individuals/management companies to operate multiple properties and/or a large number of units within a building for short-term rental purposes which removes those units as long-term housing.

- For short-term rentals that replace a long-term housing unit, a host is required to either create an equivalent unit elsewhere, or pay a Housing Replacement fee. The fee is intended to represent the cost to the Housing Trust Fund to create or preserve a permanently affordable housing unit of equal size. Thus, this fee will generate revenues to expand the capacity of the Housing Trust Fund to offset the loss of the housing unit.

Does this policy benefit only those individuals with the financial means to own a multi-unit property or comply with housing replacement fees?

- Under this proposal, there are two low-barrier options for hosts to realize the economic benefits of short-term rentals within their existing homes without major physical improvements and/or impact fees: by renting as a ‘temporary use’ for fewer than 30 nights per year, or by renting up to two bedrooms within their home. In the former scenario, the City’s zoning requirements would not apply, and in the latter, minimum housing code inspections would not apply. In both scenarios, Housing Replacement fees would not apply.

How will the City enforce the proposed regulations, particularly regarding the occupancy of the host?

- The City anticipates working with a third-party provider to regularly monitor short-term rental listings across platforms, to be compared to the City’s rental registration list. Rental registration is renewed annually, which requires a number of details to be submitted, including the address of the owner. This proposal will further require questions to be answered about any short-term rental use of the property.

How does this proposal compare to other communities’ regulations for short-term rentals?

- Approaches that cities have used to regulate short-term rentals vary widely. Bar Harbor, ME created a permissive framework, simply requiring a registration process that includes standards for the health and safety of guests. Based on the concern about the impact on local housing supply, Portland, ME created a limit on the number of short-term rentals within a building based on the total number of units in a building, and whether the building was owner or renter-occupied. Facing a notorious housing crisis, San Francisco, CA has created a robust set of zoning and building code standards, and established an entire office to enforce these regulations. The State of Vermont requires minimum life safety standards and payment of Rooms and Meals taxes. This proposed approach builds on the State’s requirements, and falls between the Portland, ME and San Francisco, CA models.

Revise Requirements for Creation & Use of Parking Spaces

Policy Reform Goal

The goals of this reform are to reduce a significant factor in the cost to construct, maintain, and lease housing units, therefore increasing the affordability of those housing units; allow more space within new development to be used for creating housing units; recognize the context-sensitive nature of parking and driving behaviors; and support a more robust system of transportation choices that enables the city to meet its Net Zero Energy goals.

Proposed Reform

In order to achieve these goals, the following zoning and impact fee reforms are proposed:

- No longer mandate a specific number of new parking spaces that must be created for developments within certain areas of the city and for certain types of projects, including:
 - Developments located within the downtown, neighborhood mixed-use, and neighborhood activity center zoning districts;
 - Developments located within the first 200 ft. of a property with frontage along a major thoroughfare which connects mixed-use areas of the city and is served by a high-frequency transit route, including North Avenue, Riverside Avenue, Colchester Avenue, Main Street, Pine Street, and Shelburne Road/St. Paul Street.; and
 - Projects that create permanently affordable housing or involve the adaptive reuse of a listed historic building.
- Enable greater sharing of private parking that has already been built, so that it can be used more efficiently through repurposing, sharing with other users, or being made available for public use.
- Maintain a limit on the maximum number of parking spaces that can be built as part of a new development to reduce the oversupply of unused parking spaces, and modernize standards for the size and layout of parking spaces and lots for more efficient design.
- Evaluate how the current Traffic Impact Fee could be used to support the expansion and increased use of alternative modes of transportation (including but not limited to transit, biking, and walking).

Framing the Burlington Context

- Burlington did not begin requiring parking for new development through zoning until the 1970s; up until 1986, developments within the downtown core were exempt from requirements to build a prescribed number of spaces.
- In 2008, three parking districts were established in the zoning ordinance to ensure that the required number of parking spaces was based on the geographic context of the development.
- As part of the *planBTV: Downtown & Waterfront Plan*, a comprehensive evaluation of parking use was conducted which illuminated that 40% of parking in existing private parking lots and garages was vacant most of the time. It is estimated that if these existing parking spaces were utilized more fully, they could support an additional 700+ housing units and 350,000 sq.ft. of commercial space without building any new parking.
- Since 2013, BBA has been working with the City to implement a downtown parking management program to better utilize existing parking resources, and make private parking resources available for public parking needs. In 2019, BBA found that despite the loss of about 500 parking spaces at CityPlace, there are still hundreds of unused parking spaces available to the public even at peak times.
- A single on-site parking space adds 15-20% to the cost of a typical residential unit (~\$200-\$300/mo.) and can cost between \$20,000-50,000 to build.
- About 39% of all Burlington workers don't drive to work; about 15% of all households city-wide, and 25% of households in neighborhoods closest to the downtown, don't have a car. This is the equivalent of almost 2,400 households and about 20% of all renters.

FAQs about this Policy

What has this looked like in other communities that have eliminated their parking minimums?

- Hundreds of communities across the country (and world) have successfully removed these now largely discredited requirements in the last decade, while hundreds more never had them to begin with. Examples include: Buffalo, Ithaca, New York, and Rochester NY; Hartford, Norwich and Stonington CT; Manchester and Dover NH; Bath and Belfast ME, among many others. These communities have taken a range of approaches, from no longer requiring a certain amount of parking in new developments city-wide, to exempting projects in certain locations from new parking requirements.
- Communities that have measured results have found that developments continued to build 40-60% of the parking spaces that the city would have otherwise required.
- A [recent study](#) by the City of Portland, OR found that without a requirement to build new parking spaces, a 32-unit building consisting of permanently affordable and working- and middle-class condominiums was the most profitable form of development in medium density areas of the city. Alternatively, if parking were required, the most profitable form of development on the same lot would be just 10 townhomes, where each unit would cost greater than 2.5 times the price of a unit the condo building. This analysis illuminated that requiring parking would lead to the creation of fewer, and significantly more expensive, housing units.

What are the anticipated positive impacts of this policy change?

- It is important to emphasize that this proposal does not mandate the elimination of existing parking spaces. It simply takes the city out of the business of mandating that a certain number of parking spaces have to be created.
- Development happens slowly over time, and as such, any impacts associated with this change will happen over many years as new developments are created.
- Enabling a project to determine its specific parking needs means that parking spaces will be built in areas of the city and for types of projects where they are needed most, while potentially reducing the number of new spaces built in places, like downtown, where robust alternatives exist, thereby helping facilitate increased use and investment in these systems.
- It is anticipated that this flexibility will reduce a significant barrier that makes the creation of new housing (and any new development) infeasible and/or expensive. This is particularly important for projects creating permanently affordable housing, where the cost of parking is an even larger burden/barrier.

What are the anticipated negative impacts of this change, particularly on the demand for public spaces and the “spillover parking” impacts in nearby neighborhoods?

- The parts of the city where it is proposed that new parking is no longer mandated, are those that have a much lower demand for parking due to a mix of uses, because they are easily reached on foot or by bike, and because they have direct access to one of the city’s high frequency public transit routes.

- In some of these locations, there is also a supply of existing parking that is actively managed to ensure that spaces are being used as efficiently as possible, and where underutilized, could be re-purposed to support the parking needs of new developments.
- The City's Residential Parking Program allows residents to request that on-street parking be prioritized for residents of the street through a permit process, which offers route to manage parking on streets close to these mixed-use areas.

Why doesn't this proposal include a payment-in-lieu option, which would require the payment of a fee in place of building required parking spaces?

- A major goal of this proposal is to remove a significant barrier to the creation of housing and its affordability. If the cost were set appropriately, a payment-in-lieu option may help to reduce this barrier somewhat; however, it is still an unnecessary cost associated with parking that is ultimately not needed. Further, if the payment amount is set too high, it is unlikely to be utilized and would provide no benefit at all.

Increase Dedicated Revenues for the Housing Trust Fund

Policy Reform Goal

The goal of this reform is to increase and restore the level of dedicated funding to support the creation and preservation of permanently affordable housing through the Housing Trust Fund.

Proposed Reform

In order to achieve this goal, the following charter change is proposed:

- Establish a specific and dedicated tax for the Housing Trust Fund at 1 cent per \$100 of assessed property value.
- Structure the fund so that, unlike has happened in the past, the fund is not eroded by inflation over time.

Framing the Burlington Context

- Since its creation in 1990, the Housing Trust Fund (HTF) has been the city's largest source of municipal funding for affordable housing, and has contributed nearly \$5.9M (of nearly \$7.4M in total investment) to support the creation and preservation of 1,686 affordable housing units and 117 beds. These projects have included new multi-family senior housing, adaptive reuse projects, co-ops, transitional housing, and individual residential sites.
- From its creation until 2006, the HTF was funded at a rate of 1 cent per \$100 of assessed property value. From 2006 on, this was reduced to ½ cent per \$100 of assessed value. Currently, this generates \$200,384 annually. From 2016-2019, Mayor Weinberger and the City Council have contributed additional general funds to the HTF for an annual contribution that reflects the previous one-cent funding level.
- In addition to the dedicated tax, other revenue sources that contribute to the fund include inclusionary zoning payments in lieu (there have been no contributions from this source since 2011), general fund discretionary contributions (such as those by the Mayor 2016-2019), and Housing Replacement payments (roughly once every 1-2 years).

FAQ's about this Policy

What is the estimated impact of this proposal on Housing Trust Fund, and cost to taxpayers?

- Under this proposal, it is anticipated that the annual funding to the HTF would increase from \$200,384 to a projected \$494,775 by 2021. The tax impact for the average Burlington homeowner would increase from \$12.41 annually today, to \$23.00 annually in 2020, to a projected \$30.67 by 2021 (see chart below).

What about a larger dedicated tax rate?

- While the City is pursuing this reform, it is also making other policy changes that may result in substantial new revenue streams to the HTF, including new payments from Inclusionary Zoning payments-in-lieu, and by ensuring that certain short-term rentals pay Housing Replacement fees. Housing Replacement fees can range from approximately \$8,000 to more than \$40,000 depending on the type and size of the unit being displaced.
- With the anticipated city-wide reappraisal, the revenue from the dedicated tax alone is projected to rise to nearly a half-million dollars by 2021. A dedicated tax rate of \$0.01 increases funding while balancing the burden on property tax payers. Starting at this level will allow the City and taxpayers to evaluate, in subsequent years, the actual new revenue collected for the fund and the impact to property owners following the reappraisal.

Impact to Taxpayer of Housing Trust Fund Rate of One Penny				
	Assessed Value (median)	Currently Paid to Existing HTF/year (1/2 penny)	Proposed/year (after penny increase)	Proposed/year (after penny increase) after City-Wide Reassessment*
Single Family	\$230,000	\$12.42	\$23.00	\$30.67
Rental Building (3+ units)	\$439,100	\$23.71	\$43.91	\$58.55
Commercial Property	\$608,000	\$32.83	\$60.80	\$81.07
Annual HTF Contribution		\$200,384	\$371,081	\$494,775
<i>*assumes a common level of assessment of 75%</i>				
Impact to Taxpayer of Housing Trust Fund Rate of One-Point-Five Pennies				
	Assessed Value (median)	Currently Paid to Existing HTF/year (1/2 penny)	Proposed/year (after 1 1/2 penny increase)	Proposed/year (after 1 1/2 penny increase) after City-Wide Reassessment*
Single Family	\$230,000	\$12.42	\$34.50	\$46.00
Rental Building (3+ units)	\$439,100	\$23.71	\$65.87	\$87.82
Commercial Property	\$608,000	\$32.83	\$91.20	\$121.60
Annual HTF Contribution		\$200,384	\$556,622	\$742,163
<i>*assumes a common level of assessment of 75%</i>				

Resolution Relating to

HOUSING POLICY REFORMS

RESOLUTION 6.05

Sponsor(s): Councilors Mason, Dieng, Roof and Paulino

Introduced: 10/07/19

Referred to: _____

Action: adopted as amended

Date: 10/07/19

Signed by Mayor: 10/16/19

CITY OF BURLINGTON

In the year Two Thousand Nineteen

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

1 That WHEREAS, in 2015, the City of Burlington adopted a Housing Action Plan, which recognized that
2 housing availability and affordability has been a key challenge for the City for more than 30 years and
3 proposed 22 strategies to address those challenges; and

4 WHEREAS, the City has implemented many of the strategies proposed in the Housing Action Plan
5 including strategically applying municipal resources to support affordable housing, resulting in the creation of
6 215 new permanently affordable homes since 2015 and the preservation of 200 additional permanently
7 affordable homes since 2015, increasing the City's general fund contributions to the Housing Trust Fund
8 to nearly double the Housing Trust Fund between FY16 and FY19, undertaking a comprehensive update to the
9 inclusionary zoning ordinance, and creating a grant program in partnership with Vermont Center for
10 Independent Living (VCIL) to assist homeowners with rehabilitation and access modifications to support
11 aging in place; and

12 WHEREAS, these strategies have also focused on reducing chronic homelessness, including
13 implementing a coordinated entry system to streamline access to housing supports and resources for people
14 experiencing homelessness and providing funding to extend the season of the low-barrier warming shelter
15 through June 15; and

16 WHEREAS, these strategies have also included creating housing for college students and improving the
17 quality of life in historic neighborhoods, and while more work needs to be done, specifically by the University
18 of Vermont to more fully meet the needs of our community with on-campus student housing, these strategies
19 have included developing the Neighborhood Project Toolkit for near-campus neighborhoods, working with the
20 University of Vermont and Champlain College to create about 600 new beds for students, and formally
21 agreeing with the University of Vermont to work toward a new Memorandum of Understanding regarding
22 additional student housing by June 30, 2020 at the latest, with quarterly updates to the Council on progress
23 being made on this important initiative; and

24 WHEREAS, the City has also continued to strengthen its enforcement efforts, including implementing
25 the "5 star" rating system that allows tenants to see the compliance history of a rental before they sign a lease

26 and indicates the property's compliance with minimum housing standards by way of a 1-5 rating; and th
27 is committed to increasing awareness of this information and making it more accessible and user-
28 friendly

29 WHEREAS, early signs suggest that these and other strategies implemented in recent years are
30 working, such as the finding, from a recent report commissioned by the City of vacancy trends in the
31 apartment market, that during the years 2006 to 2011 the city had an average vacancy rate of just 0.7 per
32 and over the past seven years the average vacancy rate more than doubled to 1.5 percent, with recent data
33 indicating that rental inflation is also slowing; and

34 WHEREAS, a vacancy rate of 1.5 percent is still far below a healthy housing market; and

35 WHEREAS, in his 2019 State of the City address, Mayor Miro Weinberger outlined a plan to add
36 remaining strategies of the Housing Action Plan and build upon its goals, including to 1) increase energy
37 efficiency in rental housing, 2) encourage the creation of accessory dwelling units, 3) create a regulatory
38 framework for short-term rentals, 4) eliminate minimum parking requirements in some areas of the city, a
39 increase the level of dedicated funding to the Housing Trust Fund; and

40 WHEREAS, changes in policies in these five areas will contribute to structural fixes that will better
41 support the availability and affordability of housing in Burlington; and

42 WHEREAS, a cross-departmental team of City staff from the Office of City Planning, Community
43 Economic Development Office, Permitting & Inspections Department, and Burlington Electric Department
44 have been meeting on a weekly basis through the spring and summer to further research and develop
45 complementary recommendations in each of these five areas; and

46 WHEREAS, the Administration hosted the BTV Housing Summit on June 11, 2019 and the BTV
47 Housing Summit – Part 2 on September 4, 2019, to obtain input from residents, stakeholders, and the public
48 develop and refine the proposals related to this slate of housing policy reforms and future housing policy
49 work; and

50 WHEREAS, in response to feedback that members of the public shared at these Summits, the Mayor
51 has also tasked the Community and Economic Development Office to complete a review of tenant protection
52 and deliver that review and recommendations for additional protections to the City Council by the end of
53 October; and

54 WHEREAS, many of these policies are complementary to the City's Net Zero Energy goal, which
55 require the Burlington of 2030 to be one where every building is much more energy efficient and where land
56 use policies help support less energy use; and

57 WHEREAS, the Administration has asked for the support of the City Council to pursue each of the
58 reforms;

59 NOW, THEREFORE, BE IT RESOLVED that the City Council supports the Administration's goal of
60 pursuing the above referenced housing policy reforms; and

61 BE IT FURTHER RESOLVED that the City Council refers to its Ordinance Committee the following
62 proposal to prepare ordinance amendments that achieves- the stated goals (as well as any related amendments
63 necessary to achieve the identified housing policy reform) relative to the first strategy:

64 1) To increase energy efficiency in rental housing to improve the quality and comfort of rental units and
65 lower tenants' utility costs, address the "split incentive" paradigm, and reduce greenhouse gas
66 emissions by:

67 A) amending the Time of Sale Ordinance, which currently requires energy efficiency
68 improvements through building weatherization to rental housing only at the time a unit is sold, to
69 ensure that these improvements become part of the minimum housing standards for rental
70 units as enforced by the Permitting & Inspections Department, including through regular
71 inspections; and

72 B) applying the list of applicable weatherization improvements from the Time of Sale Ordinance to rental units
73 which includes modern weatherization practices such as insulation in exterior walls, attic
74 spaces, functional weather stripping, and repair of air leaks, as well as others, to all rental units
75 that have an energy intensity rating of greater than 50,000 BTUs per square foot; and

76 C) raising the cap on the dollar amount of investment in weatherization that is currently required
77 by the Time of Sale Ordinance to a level that, while not unreasonably financially burdensome, is
78 designed to maximize expected energy savings and occupant comfort, be consistent with best
79 practices from other cold climate jurisdictions, eliminate the "cost effectiveness limitation" that
80 exists in the Time of Sale Ordinance today in favor of the more straightforward cost cap, and
81 rationally accommodate inspections and compliance, reflect the real costs and benefits of the
82 improvements, and rise with inflation; and

83 D) developing a timeline and process for implementation of this policy that is consistent with
84 Burlington's Net Zero Energy Roadmap, and identifying what resources, such as additional
85 staff time or external support, would be necessary to ensure proper compliance on that
86 timeline; and

87 BE IT FURTHER RESOLVED that the City Council additionally refers the following proposals to the
88 Joint Committee of the Planning Commission and the City Council Ordinance Committee to prepare

89 ordinance amendments that achieve the stated goals (as well as any related amendments necessary to achieve
90 the identified housing policy reforms) relative to the second, third, and fourth strategies:

91 2) To encourage the creation of Accessory Dwelling Units (ADUs) to support homeowners aging in
92 place, help homeowners continue to afford their homes, and add affordable housing options within
93 neighborhoods by:

94 A) allowing ADUs for single family homes in all districts as a permitted use;

95 B) eliminating the parking requirement for ADUs;

96 C) allowing ADUs to be up to 30% of the finished area on a lot, or up to a maximum size of 800
97 feet; and

98 D) creating a waiver process for consideration by the DRB for an ADU to exceed lot coverage
99 limits if stormwater impacts are addressed; and

100 3) To create a regulatory framework for short-term rentals that creates tiers for different types of short-
101 term rentals and disincentivizes the most impactful uses, thereby protecting the city's housing
102 supply by limiting the number of housing units that can be converted for short-term rental purposes
103 and ensuring that those conversions are contributing to the city's efforts to preserve and expand
104 permanently affordable housing, while also preserving some flexibility and ability to earn greater
105 income for Burlington homeowners, and recognizing that some supply of short-term rentals
106 benefits the Burlington economy by increasing options for visitors and by differentiating between
107 the rental of bedrooms within a unit (generally permitted) and the rental of the entire unit
108 (conditional use in residential districts) by:

109 A) updating the existing bed and breakfast definitions and standards to include per-bedroom standards for
110 term rentals;

111 B) limiting the number of whole-unit short-term rentals within a building so that any building with
112 four or more short-term rentals is considered a hotel;

113 C) exempting intermittent short-term rentals of less than 10 consecutive days or 30 total days in a
114 year from the requirement to obtain a zoning permit per existing temporary use standards;

115 D) requiring registration with the City in order to apply, monitor, and enforce life safety, nuisance
116 and applicable state standards to all short-term rentals through the City of Burlington's rental
117 registration process and related inspections; and

118 E) ensuring that the city's existing housing replacement standards apply to short-term rentals where
119 the rental replaces an existing housing unit; and

- 120 4) To revise the city's approach to minimum parking requirements, in order to reduce the cost to
 121 construct, maintain, and lease housing units; allow more space for additional housing units; and
 122 support a robust system of transportation alternatives by:
- 123 A) eliminating the requirement for a minimum number of parking spaces for new development
 124 is within the Downtown, Neighborhood Activity Center, and Neighborhood Mixed Use zones
 125 districts and is within the first 200 ft. of a property with frontage on a designated major
 126 thoroughfare, or for projects that involve permanently affordable housing or adaptive reuse of
 127 listed historic building;
- 128 B) releasing permitting requirements for existing parking to enable greater sharing of existing
 129 parking;
- 130 C) revising dimensional requirements so that new parking spaces do not require as much space
 131 and
- 132 **D) revising parking maximums so as to prevent an overbuilding of parking that would**
 133 **undermine the goals of this policy change;**
- 134 **E) creating other possible regulatory mechanisms, including transportation demand**
 135 **management requirements, to ensure additional investment in alternative transportation**
 136 **and**
- 137 BE IT FURTHER RESOLVED that the City Council supports the Administration to further carry
 138 the fourth strategy related to eliminating parking minimums by directing the Office of City Planning to
 139 prepare a proposal to submit to the Council for its consideration by January 1, 2020, that includes
- 140 - the necessary scope of work, budget, and timeline to conduct a study of how traffic impact
 141 can be used to support the expansion and increased use of alternative modes of transportation (including but
 142 not limited to transit, biking, and walking) as part of an effort to update Burlington's current system of impact
 143 fees, and
- 144 - a goal of completing the study and proposing the impact fee changes by October 31, 2020,
 145 ~~an exploration of other possible regulatory mechanisms, including transportation demand~~
 146 ~~management requirements, to ensure additional investment in alternative transportation; and~~
- 147 BE IT FURTHER RESOLVED that the City Council refers to its Charter Change Committee the
 148 following recommendations concerning the fifth strategy:
- 149 5) To increase and restore the level of dedicated funding to support the creation and preservation of
 150 permanently affordable housing through the Housing Trust Fund by:

- 151 A) preparing a charter change to establish a specific and dedicated tax for the Housing Trust Fund
 152 at one cent per hundred dollars (\$.01 per \$100.00) of assessed property value, with the
 153 possibility of this tax increasing to one and a half cents per hundred dollars (\$.015 per \$100.00)
 154 **and two cents per hundred dollars (\$.020 per \$100.00)** of assessed property value;
 155 B) ensuring the Fund reflects inflation and changes in city-wide assessed values; and
 156 C) ensuring the ability of the Fund to accept additional funds from other sources, such as
 157 inclusionary zoning payment-in-lieu fees and housing replacement fees from converting long-term
 158 term to short-term rentals;
 159 D) requiring a review of the adequacy of the fund after the new revenue sources have been in place
 160 for three years; and

161 BE IT FURTHER RESOLVED that upon receipt, the Council refers to its Community Development
 162 and Neighborhood Revitalization Committee the review of recommendations regarding renter protections
 163 will be delivered by CEDO and the Department of Permitting & Inspections in October, so that the Committee
 164 may develop any further changes; and

165 BE IT FURTHER RESOLVED that the Committees are expected to report back to the Council in sufficient
 166 sufficient time to allow the Council to finalize any ordinance changes recommended by the Joint Committee
 167 (or in the absence of agreement, by the Ordinance Committee) and the City Council Ordinance Committee
 168 following public input, in time for the Council to take action at its first meeting of 2020, and if, because of
 169 detail involved in these proposals, this timeline proves impossible to meet, the Committees shall complete
 170 many of these items as possible within this timeframe and update the Council on the anticipated timeline of
 171 the remaining items at its first meeting of 2020; and

172 BE IT FURTHER RESOLVED that the Charter Change Committee will present any recommended
 173 change to charter language to the City Council in time for voters to take action at the March 2020 Annual
 174 Meeting.

175

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

Planning Commission
Ordinance Committee
Mayor's Office
Charter Change Committee

Linda Blanchard, City Attorney's Office

ORIGINAL

RESOLUTION RELATING TO

Housing Policy Reforms

Amended

Adopted by the City Council

October 7, 2019

Clerk

Approved: *[Signature]* October 10, 2019

Mayor

Attest:

[Signature]

Lori Olberg

Licensing, Voting and Records Coordinator

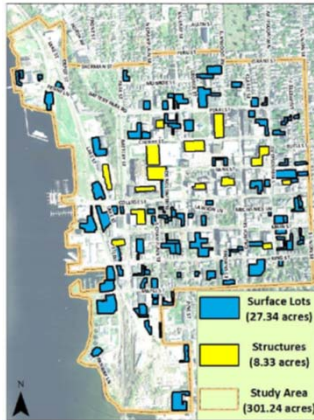
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Minimum Parking Requirements



Parking occupies a lot of land.

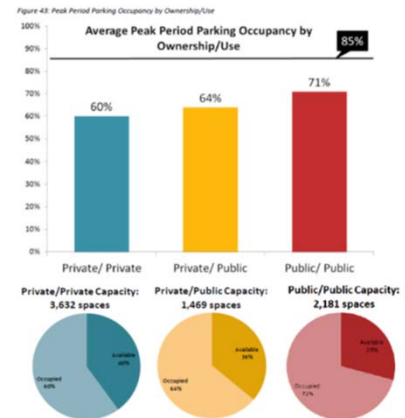


14% of the downtown land area

Parking is expensive to build and maintain. Many parking spaces go unused.

	Construction Cost (per space)	
	Above Ground	Below Ground
Boston	\$25,000	\$31,000
Nat. Ave	\$24,000	\$34,000

- Parking adds 15-20% to the cost of a housing unit
- 39% of BTV workers do not drive to work
- ~15% of all households citywide do not have a car

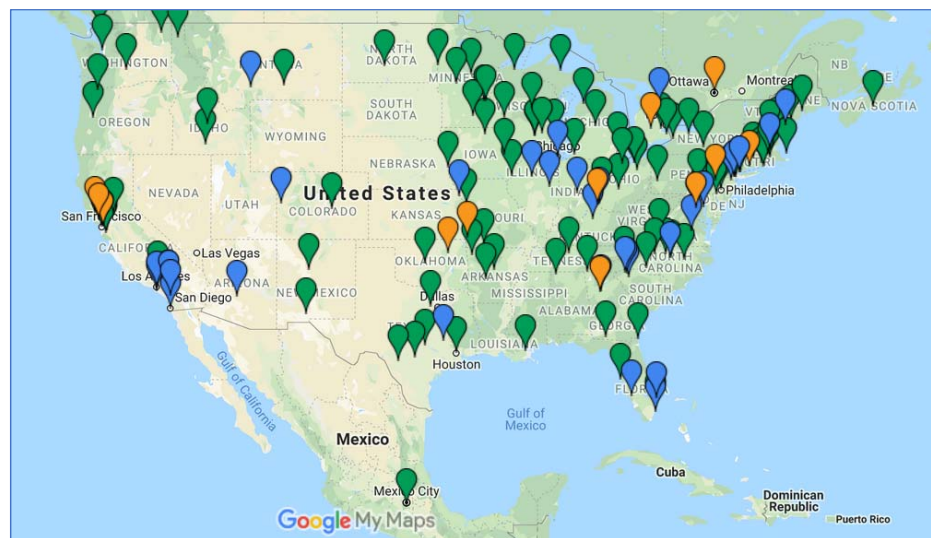


Minimum Parking Requirements

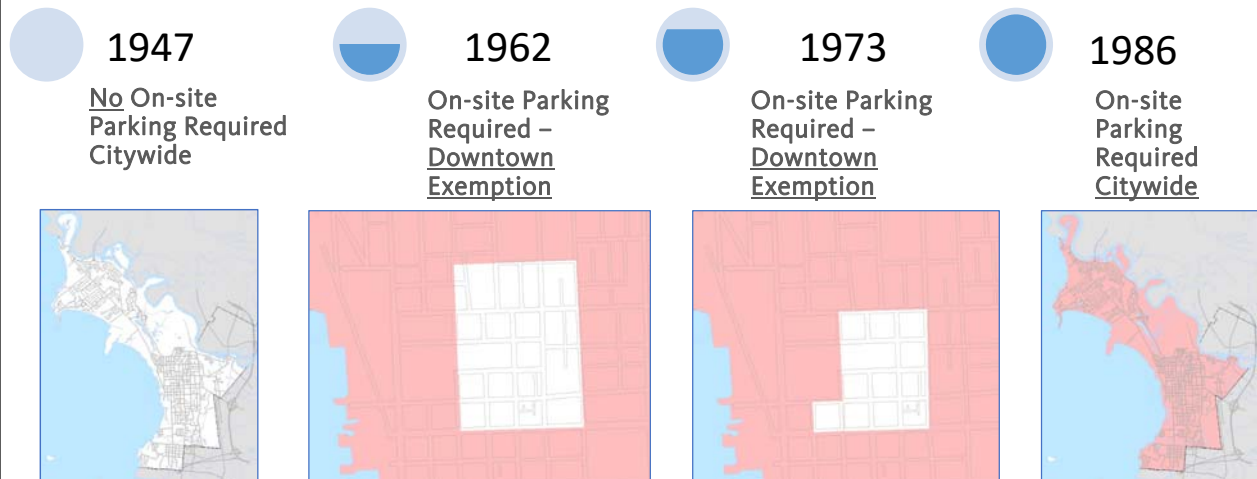


~130 towns, cities and counties across the country that have taken efforts to completely or partially eliminate their parking minimums – hundreds more never adopted them to begin with

Some notables – Buffalo & Ithaca NY, Hartford CT, San Francisco CA, Asheville & Durham NC, Providence RI, Bozeman MT, Manchester & Dover NH, and Bath, Portland and Belfast ME



Minimum Parking Requirements



Minimum Parking Requirements

What are we trying to accomplish?



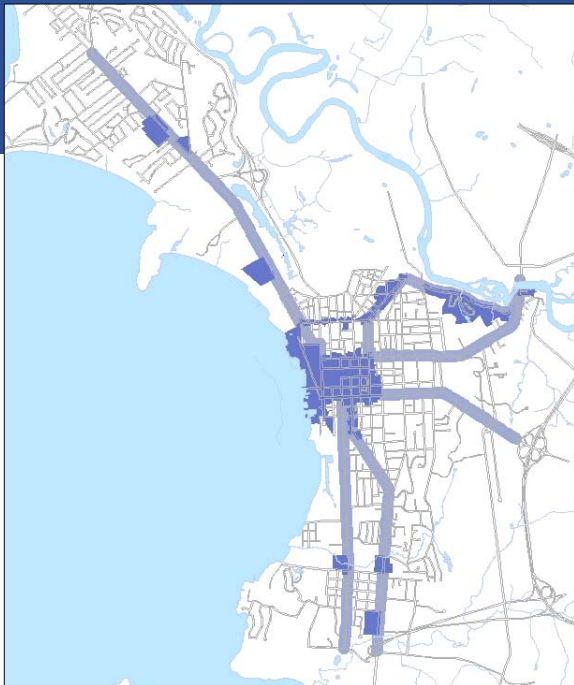
- **Remove a significant barrier to the creation of housing (and any new development) and it's affordability**
 - Each parking space adds \$20,000-50,000 to the cost of new development
 - A parking space can add 15-20% to the cost of an individual housing unit
 - Parking can consume 30-50% of the physical space available for new development
 - Not every property can physically accommodate on-site parking in an economical way due to its size/shape
- **Specifically target types of housing development where the cost of parking is an even larger burden/barrier**
 - Development of affordable housing is very challenging and resource-constrained
 - Low-income owners/renter are disproportionately impacted by the cost of parking
 - Rehabilitation of historic buildings is especially challenging and expensive, and involves developed sites where there is no space left to accommodate additional parking
- **Allow new parking that is created to be more efficiently laid-out**
 - The current dimensional requirements for parking spaces and lots/garages are excessive, and therefore consume valuable space unnecessarily and can make some sites undevelopable.

Minimum Parking Requirements

What are we trying to accomplish?



- **Enable more efficient use of parking spaces that we already have**
 - 40% of existing private lots and garages downtown are vacant most of the time
 - Existing zoning permits constrain the ability of these spaces to be used by others and/or re-purposed
 - Underutilized parking downtown could support >700 housing units and ~350k sqft of commercial use
- **Facilitate the use of alternative modes of transportation**
 - Requiring a parking space is a significant incentive and subsidy for increased car ownership and use.
 - Enables a conscious choice by owners and tenants regarding their need for a parking space and to own a car
 - Increase use and reliance on walking, biking and transit
 - Reduce traffic congestion, greenhouse gas emissions, and the reliance on fossil fuels.
- **Increase capital investment for a broader range of transportation and parking infrastructure**
 - Current Traffic Impact Fee can only be used for intersection improvements
 - No similar development-related funding source for transit, pedestrian and biking capital improvements
- **Encourage new development and infill where it is wanted/needed most**
 - Areas proposed encompass those areas identified in planBTV for future development both now and in the future – mixed-use and transit-oriented



Minimum Parking Requirements



Proposal:

Eliminate the minimum parking requirements for new development in:

- Downtown
- Neighborhood Activity Centers
- The first 200-ft of depth of properties fronting on major thoroughfares

And, for any of the following regardless of where they are located:

- Permanently affordable housing units
- Rehabilitation of a listed historic building
- Accessory Dwelling Units

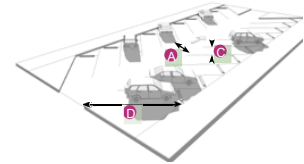
Note: The creation of on-site parking would still be allowed up to the maximum currently permitted.

Minimum Parking Requirements



And...

- **Enable a more efficient use of the parking we already have, and the space needed for new spaces**
 - ☐ Release existing development from the on-site parking requirements of their current zoning permits so that un/under-utilized spaces can be put to better use – redeveloped or shared with nearby properties
 - ☐ Modernize the dimensional standards for parking spaces so that new parking doesn't require as much space
- **Ensure that alternative forms of transportation are supported and readily available**
 - ☐ Modernize the current Traffic Impact Fee into a more holistic and comprehensive "Transportation and Parking Impact Fee" to support future capital improvements



Meagan Tuttle

From: Amy Gonyaw <amygonyaw@gmail.com>
Sent: Tuesday, October 22, 2019 5:05 PM
To: Chip Mason; Sharon Bushor; Adam Roof; nlopez@burlingtonvt.gov; Mayor's Office
Cc: Meagan Tuttle; Olivia LaVecchia; Brian Pine
Subject: Short Term Housing Proposal Feedback

[WARNING]: External Message

Dear City Council Ordinance Committee: Chip Mason, Sharon Bushor, Adam Roof, and Nick Lopez

I understand from Brian Pine and Meagan Tuttle that you are the members of the Ordinance Committee and are responsible for making recommendations to the full Council on regulating short term rentals. There are two aspects of the current short-term rental proposal that concern me: requiring a host to live in the multi-unit in which they have a short-term rental and requiring a change of use rather than simply requiring a short-term rental to register with the City.

I agree with regulating short term rentals. Please regulate them by limiting the number of short-term rentals an individual can have **and** the number allowed in multiunit buildings. **This makes sense.** We don't want companies coming in and starting up many Airbnb's- a real concern. If you limit the number that one person can have you will keep large landlords and outside prospectors from running many short-term rentals. This will keep more rentals on the long-term market and let many small property owners supplement their income with short term rentals.

Here is my situation for you to judge my short-term rentals:

I live 10 miles out of town, have one 3-unit property that was my residence before I met my husband and started a family a few years ago. I use the income from two short-term rentals (I understand that as the proposal is written I would need to remove one short term rental, I am fine with this) to support my family, improve the property (in the past two years: new roof, full interior and exterior paint job, heat pumps) and to provide my elderly tenant in the third unit an affordable apartment. My property is in the high density residential district, in the southern part of the block defined by King, Pine, S. Champlain and Main Streets, arguably appropriate to be added to the downtown district (half of the block is downtown district with more proposed to be added by the Council). My guests park their car in the leased parking spot I provide and spend their time walking around the City. My Airbnb has never received a complaint including from the neighbors.

I work for the Dept. of Health in Burlington and think every day about how to regulate in favor of the health and wellbeing of Vermonters, while being mindful of how our policies might produce unintended consequences. I am concerned about the motivations and unintended consequences of the current short-term rental proposal. I am afraid the proposal in its current state will 1) limit the increasing growth and vibrancy of Burlington 2) have no impact on increasing the affordability of Burlington 3) hurt one group of people in favor of another (those who live in their multiunit) to little advantage.

Below are my thought in relation to some City Council concerns which were relayed to me by Brian Pine in an email exchange earlier this week:

Absentee operation of a short-term rentals:

Short term rental platforms have a rating system completed by host and guest. I use Airbnb. Hosts are removed from renting Airbnb if they get too many 3 star ratings. Guests can also be removed from Airbnb. I can block a guest from returning. I am a Superhost on Airbnb, I maintain the highest rating, a 5 star rating. I do this through monitoring my building daily and carefully reading all of my reviews. I maintain the 5 star reviews by offering an exceptionally clean and safe property. If it weren't the guests would leave me bad reviews and my Airbnb would quickly end. Communities have existing avenues to address nuisances if short term rentals become problematic: Burlington has a Noise Ordinance with fines and short-term rental complaints can be registered with the City like other complaints. I have found that short term rental guests are extremely considerate and respectful. Please consider, how many complaints the City of Burlington has received around short term rentals and how many around college students?!

Transient population:

My long-term tenant who lives below my Airbnb by far prefers the Airbnb guests to the long-term renters I had before. The Airbnb guests are quieter and cleaner. The long-term renters were a curse for her: they caused pest problems because they weren't clean, were loud and threw cigarette butts on the ground. The Airbnb is cleaned every day and the guests are exceptionally thoughtful. The guests care about the reviews that will be left and know that if they cause damage Airbnb will seek reparation. Because my building is in the High Density Residential zone it is well suited to short term rentals; it is in a busy section of town, my rental is not noticed by the neighbors.

Loss of long-term housing:

We all know that we need more affordable housing in Burlington. This has been a constant problem long before short term rentals came on the scene. Let's increase jobs and salaries in Burlington and address other sources of poverty. Let's not limit the tourist money coming in that is increasing jobs and salaries which in turn will reduce poverty. 1) Please change the ordinance to allow for more building! Let's grow the city, not squash a means of making secondary income that benefits the economy of the City. 2) UVM has 12,000 students and only 5800 housing spots on campus. Just think, if UVM were required to house all of their students, 6200 bedrooms could be returned Burlington along with removing student ghettos. If you are worried about transient populations harmful to Burlington communities look no farther. 3) Why not allow Airbnb in multi units smaller than 6 as is in the proposal, with only a certain number allowed to be Airbnb. Limit the overall number of short-term rentals one host can have. If the host does not live in the building, require that one of the units be rented at below market value (you define it, I know you have this information on what people can afford). This mirrors the requirement of some new apartment buildings to have a certain percent affordable housing. This would instantly produce affordable housing for Burlington.

Parking:

South Burlington just eliminated minimum parking requirements as they found they had excess parking. Burlington's study produced similar findings. In Burlington, parking is used to restrict use even when the desired use has little to do with parking. For the sake of moving away from an archaic ordinance please seriously consider not using parking to restrict short term rentals. You could ask short term rentals to lease parking spots- this is doable in Burlington because there are plenty of garage spots. Ask short-term rentals to register with the City, do not require a change of use. **Change of use is currently tightly tied to the outdated parking requirements.**

Meagan Tuttle wrote to me on the topic of requiring a change of use of short-term rentals:

“However, if the property is a neighborhood parking district, the non-conformity could be extended to the STR, but not back again, because the parking requirement is 2 per unit. Once a non-conforming use is abandoned, it cannot be reverted to.”

My building does not have parking. I lease two parking spots from a nearby private garage for the short-term rentals. If the committee were to require a change of use rather than just a registry for short-term rentals I would have to shut mine down simply due to parking. I strongly question if the location of my short-term rental is harming the city because it doesn't have parking. This seems to be the point for the committee to decide because change of use effectively deals with parking. Guests come with 1 car when they stay in my 3-bedroom apartment. In the past when I rented it EACH of 3 tenants had a car that they parked on the street. I ask you to pause and consider this carefully. The parking requirements for change of use don't make sense. Especially when the committee is simultaneously considering reducing parking requirements downtown.

To recap my major points: Fears around absentee short-term rental hosts (hosts that don't live in their short-term rental) are unwarranted. I no longer live in my multiunit but need to tend to it carefully to keep it successful. Tying short term rentals to increased parking requirements doesn't make sense because when people travel they don't bring multiple cars; when they live in a multi bedroom apartment long term they DO keep a multiple cars- one per bedroom. Logically, long term rentals should have more parking required, not less. In addition, there are plenty of private garage parking spots to lease.

In short, yes regulate short term rentals, but not with such a heavy hand as to cut out people like me. I would be one person with one Airbnb working hard to keep my Superhost rating by keeping guests and my neighbors happy as I do now.

Thank you for considering these points.

I will attend the council meeting on Oct. 30th.

Amy Gonyaw

gene
BERGMAN

10/22/11

On eliminating the parking minimums

Let me start by saying that I support eliminating parking minimums in the areas that are proposed. But I have a problem with a proposal that gives a big cost break to developers without getting TDM & the alternative transportation system funding that is desperately needed in exchange.

It is much harder to get something back after you've given it away. But unless TDM and alternative transportation system funding is part of the ordinance amendments that is what you'll be doing.

I'm very happy that the City Council amended the resolution to have you propose TDM and other alternatives as part of your charge. This is actually what the people at the summit voiced strong support for.

They were clear that there should be funding alternative transportation systems in exchange for eliminating the minimums. Not tying them together makes participation in those events seem to be window dressing.

Dog and pony shows do nothing but breed contempt and cynicism and public cynicism is the last thing we need in government, especially these days.

There are a number of ways to do this. Cities all over the country have. I'll be happy to share my research with you as you delve into this.

I hope staff will do a more thorough review of the issue than is presented in the materials. For example, they cite Buffalo

as a model to just eliminate the minimum but leave out the comprehensive transportation infrastructure—trains, rail, etc.—that already existed. We need to build that infrastructure and without developers pitching in, this is just socializing the cost while privatizing the profit and praying that the lower costs will trickle down and provide the affordable housing we desperately need.



MEMORANDUM

TO: City of Burlington Planning Commission Chair
Town of Shelburne Planning Commission Chair
Town of Colchester Planning Commission Chair
Town of Williston Planning Commission Chair
City of Winooski Planning Commission Chair
Town of Essex Planning Commission Chair
Village of Essex Junction Planning Commission Chair
Charlie Baker, Chittenden County Regional Planning Commission
Faith Ingulsrud, VT Department of Housing and Community Development

FROM: Paul Conner, Director of Planning & Zoning

SUBJECT: Proposed Land Development Regulation Amendments

DATE: October 24, 2019

Enclosed please find a series of proposed amendments to the City of South Burlington's Land Development Regulations, as well as a report from the Planning Commission, as required under Chapter 117. The Planning Commission will hold a public hearing on these amendments on Tuesday, December 10, 2019, 7:00 pm in the City Hall Conference Room, 575 Dorset Street, South Burlington.

Feedback on the draft amendments is welcome, either in person at the hearing, or in writing in advance of the hearing date. Should you have any questions, feel free contact the Department of Planning & Zoning.



PROPOSED AMENDMENTS to the SOUTH BURLINGTON LAND DEVELOPMENT REGULATIONS

Public Hearing Tuesday, December 10, 2019 at 7:00 pm

PLEASE TAKE NOTICE that the South Burlington Planning Commission will hold a public hearing on Tuesday, December 10, 2019 at 7:00 PM in the City Hall Conference Room, 575 Dorset Street, South Burlington, Vermont to consider amendments to the South Burlington Land Development Regulations. The amendments affect all parts of the City as described below.

The purpose of the hearing is to consider the following:

- A. LDR-19-13A: Modify existing Inclusionary Zoning requirements and extend applicability to include all lands that underlie the Transit Overlay District, all lands within the City Center Form Based Code District, and all lands in the vicinity of Hinesburg Road and Old Farm Road that are north of I-89 and are outside the Transit Overlay District.
- B. LDR-19-13B: Modify Affordable Housing Density Bonus standards as follows: (1) reduce applicable area to only those areas not subject to proposed Inclusionary Zoning standards [LDR-19-13A], and; (2) adjust requirements for income eligibility and continued affordability for all remaining parts of the City.

Specific Sections to be Amended

2.02 Specific Definitions

15.02 Authority and Required Review [Subdivision & Planned Unit Development]

17.03 Certificates of Occupancy

18.01 Inclusionary Zoning

18.02 Affordable Housing Density Bonus

Copies of the proposed amendments are available for inspection at the Department of Planning & Zoning, City Hall, 2nd Floor, 575 Dorset Street, South Burlington, between 8:00 am and 4:30 pm, except holidays, and on the City's website at www.sbvt.gov.

Jessica Louisos, Planning Commission Chair
October 24, 2019

LDR-19-13A: Modify existing Inclusionary Zoning requirements and extend applicability to include all lands that underline the Transit Overlay District, all lands within the City Center Form Based Code District, and all lands in the vicinity of Hinesburg Road and Old Farm Road that are north of I-89 and are outside the Transit Overlay District.

LDR-19-13B: Modify Affordable Housing Density Bonus standards as follows: (1) reduce applicable area to only those areas not subject to proposed Inclusionary Zoning standards [LDR-19-13A], and; (2) adjust requirements for income eligibility and continued affordability for all remaining parts of the City.

ARTICLE 2 DEFINITIONS

...

2.02 Specific Definitions

...

Affordable housing. this shall mean either of the following:

(A) Housing that is owned by its inhabitants, whose gross annual household income does not exceed ~~eighty-one-hundred~~ percent (~~80~~100%) of the median income for the Burlington-South Burlington Metropolitan Statistical Area (MSA), as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than thirty percent (30%) of the household's gross annual income; or

(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed eighty percent (80%) of the median income for the Burlington-South Burlington Metropolitan Statistical Area (MSA), as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than thirty percent (30%) of the household's gross annual income

This definition, however, does not apply to housing projects covered under inclusionary zoning, pursuant to 24 VSA Section 4414(7). See Section 18.01 (Inclusionary Zoning).

Affordable housing development. A housing development of which at least fifty percent (50%) of the units are affordable to households at 80% AMI for rentals and homeownership housing units. This definition, however, does not apply to housing projects covered under inclusionary zoning, pursuant to 24 VSA Section 4414(7), and Section 18.01 of this ordinance.

...

Household Size. The household size for an applicant seeking to rent or purchase an Inclusionary Unit is the total number of individuals (adults and children) that will live in the Inclusionary Unit, regardless of each individual household member's relationship, if any, to other members of the household. Note, however, that South Burlington's land development regulations prohibit five or more individuals age 18 or older from occupying a single dwelling unit when none of the five or more individuals is related to any other individual living in the dwelling unit.

Household Income. The household income for an applicant seeking to rent or purchase an Inclusionary Unit is the total combined annual cash income, whether earned (for example, salary, wages, tips, or commissions) or unearned (for example, benefits, unemployment compensation, interest, dividends) of each household member.

...

Inclusionary Housing. A designated percentage, as defined in Section 18.01, of dwelling units included in a development of 12 or more dwelling units that, as required:

- (1) have a sales or rental price at or below that corresponding to the Area Median Income level (AMI), 80% for ownership or 80% for rental (as defined by the US Department of Housing and Urban Development), to which the inclusionary unit is targeted as required by these regulations; and
- (2) are occupied by households whose household income, at initial occupancy, do not exceed 100% AMI for homeownership and 80% AMI for rental for a household of its size; and
- (3) have a sales or rental price that shall remain perpetually affordable at the 80% AMI level.

Inclusionary home ownership. A dwelling unit that is owned by its inhabitants:

- (1) whose sales price does not exceed the maximum price calculated based on a HUD formula using unit size (i.e. number of bedrooms) to define a unit-specific household size, for a household income of 80% of the Area Median Income (AMI) for the Burlington-South Burlington Metropolitan Statistical Area (MSA) (as defined by the US Department of Housing and Urban Development); and
- (2) which is owned by a household, whose household income, upon purchase, does not exceed the 100% AMI for a household of its size; and
- (3) whose purchase price shall remain perpetually affordable at the 80% AMI level;

Note the unit-specific household size based on the number of bedrooms and the actual household size of the purchasing household do not have to be the same.

Inclusionary rental housing. A dwelling unit that is rented by its inhabitants:

- (1) whose rent does not exceed the maximum price calculated based on a HUD formula using unit size (i.e. number of bedrooms) to define a unit-specific household size, for a household income of 80% of the Area Median Income (AMI) for the Burlington-South Burlington Metropolitan Statistical Area (MSA) (as defined by the US Department of Housing and Urban Development), to which the inclusionary unit is targeted; and
- (2) which is rented by a household whose household income, at initial occupancy, does not exceed the 80% AMI target for a household of its size; and
- (3) whose rent shall remain perpetually affordable at the 80% AMI level;

Note the unit-specific household size based on the number of bedrooms and the actual household size of the renting household do not have to be the same.

Inclusionary Unit. A dwelling unit that meets the requirements of dwelling units defined under Inclusionary Housing.

...

...

ARTICLE 15 SUBDIVISION and PLANNED UNIT DEVELOPMENT REVIEW

...

15.02 Authority and Required Review

A. Authority

...

(6) The modification of the maximum residential density for a zoning district shall be permitted only as provided in the applicable district regulations and/or for the provision of affordable housing pursuant to Section 18.01 and 18.02 13.14 of these Regulations.

ARTICLE 17 ADMINISTRATION and ENFORCEMENT

...

17.03 Certificates of Occupancy

A. Certificate of Occupancy Required. It shall be unlawful to use, occupy or permit the use or occupancy of any land or structure or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued therefor by the Administrative Officer.

B. Certificate of Occupancy Not Required. Certificates of occupancy shall not be required for single-family or two-family dwellings, except as specifically listed below:

- (1) Certificates of Occupancy are required for single and two family dwellings within the Floodplain Overlay (Zones A, AE, and A1-30) Subdistrict.
- (2) Certificates of Occupancy are required for inclusionary single and two-family dwellings within the applicable locations defined in Section 18.01(B)(1) (Applicability - Zoning Districts and Locations). Buildings containing the last 10% of market rate units shall not receive certificates of occupancy until certificates of occupancy are issued for all buildings containing inclusionary units, including when the inclusionary units are provided off-site as provided for in Subsection (E)(1)(b) (Off-Site Construction)City Center FBC District.
- (3) Certificates of Occupancy are required for dwelling units constructed in accordance with Section 18.03(C)(1) of these Regulations.
- (4) Certificates of Occupancy are required for replacement dwelling units built in accordance with Section 18.03 of these Regulations.

ARTICLE 18 AFFORDABLE HOUSING STANDARDS

18.01 Inclusionary Zoning

A. Purpose. Inclusionary zoning to provide affordable and moderate income housing in the applicable locations defined in Subsection (B)(1) (Applicability - Zoning Districts and Locations) of this Article the City

~~Center Form Based Codes District~~ of the City of South Burlington has been adopted pursuant to 24 VSA § 4414(7) for the following purposes:

- (1) To be a City that is affordable for people of all incomes, lifestyles, and stages of life through the preservation and development of a variety of housing in diverse, accessible neighborhoods, consistent with the South Burlington Comprehensive Plan, as most recently amended;
- (2) To implement policies that support achievement of housing goals, objectives, and targets included in the South Burlington Comprehensive Plan as most recently amended;
- (23) To affirmatively address the current and anticipated need for affordable housing units among low- and moderate-income South Burlington households that pay more than 30% of their income on housing, as described in state law (24 VSA § 4303(1));
- (34) To mitigate the impacts of market-rate housing development that is unaffordable to low- and moderate-income households on the cost and supply of land and infrastructure available for affordable housing development in the ~~City Center Form Based Codes District~~applicable locations;
- (45) To promote the integrated development of mixed-income housing in the applicable locations~~City Center Form Based Codes District~~, including a range of housing options needed to strengthen, diversify, and contribute to the vitality of ~~City Center and~~ the South Burlington community;
- (56) To ~~ensure that~~promote the development of affordable housing opportunities that are available in ~~the City Center Form Based Codes District, which is or will be~~locations accessible to goods and services and served by existing or planned public transit services;
- (67) To ensure that affordable housing units developed under inclusionary zoning remain perpetually affordable.
- (78) To provide integrated development incentives that contribute to the economic feasibility of providing affordable housing units,~~including eliminating maximum residential densities, minimum lot sizes, and minimum parking requirements for residential units within the City Center Form Based Codes District.~~

B. Applicability

- (1) **Zoning Districts and Locations.** Inclusionary Zoning shall apply in the following areas:
 - (a) All zoning districts that permit residential development and underlie the Transit Overlay District;
 - (b) The parts of the Center City Form-Based Code district that do not underlie the Transit Overlay District; and
 - (c) The land in the vicinity of Hinesburg Road that does not underlie the Transit Overlay District and is bounded by Interstate 89 in the southerly direction and the Transit Overlay District in the northerly direction.
- (2) **Covered Development.** Except as otherwise provided in this bylaw, the provisions of this section shall apply in the locations defined in Subsection (B)(1) (Applicability - Zoning Districts and Locations) of this Article ~~within the City Center Form Based Codes District~~ to any development, notwithstanding any phasing of the development, that will result in the creation of twelve (12) or more total dwelling units through subdivision, new construction, or the conversion of an existing structure or structures from non-residential to residential use. In addition, the provisions of this section shall apply to any development that will result in the creation of twelve (12) or more of any other form of permanent housing, including

but not limited to housing units contained within a housing facility that is permitted as a congregate care facility, except group homes, residential care facilities, or skilled nursing facilities as defined in these regulations. When a development includes both residential dwelling units and housing units permitted as congregate housing, the number of required inclusionary units shall be determined by the sum of the residential units and the housing units contained in the congregate care facility, and distributed proportionally between the two uses. For purposes of this requirement, two or more developments shall be aggregated and considered as one development subject to this section if:

- (a) The developments are located on abutting properties; and
- (b) The developments are owned or controlled by the same person; and
- (c) Either:
 - (i) The developments will undergo subdivision, construction, or conversion of an existing structure or structures from non-residential to residential use within the same five-year period, which period shall be measured from the date a proper and complete application is first submitted, or
 - (ii) A master plan exists, as approved by the City, which includes two or more of the developments.

(23) Exemptions. The following developments are exempt from these requirements:

- (a) Projects that are developed by an educational institution for the exclusive residential use and occupancy of its students.
- (b) Institutional, group homes or group quarters housing, including long-term care facilities.
- (c) The redevelopment of existing dwelling units in a project that produces no additional units.

C. Inclusionary Units

(1) For covered development, at least ~~five-fifteen~~ percent (15%) of the total dwelling units offered for rent ~~or sale, including units offered for sale in fee simple, shared, condominium or cooperative ownership,~~ shall be affordable to households; or at least ten percent (10%) of the total dwelling units offered for sale, including units offered for sale in fee simple, shared, condominium or cooperative ownership, shall be affordable to households. While there is no requirement for inclusionary units to be offered as either rent or sale, prior to or upon request for the Certificate of Occupancy the applicant shall provide whether the inclusionary units will be used for rental or for purchase so that the City, or their designee, may confirm that the offered rents or prices meet these requirements prior to issuance of the Certificate of Occupancy. The rents or price shall be affordable to the income limits ~~having incomes as follows: no greater than 80% of the area median income (AMI) adjusted for household size. An additional five percent (5%) of the total dwelling units shall be affordable to households having incomes no greater than 100% of the AMI adjusted for household size. An additional five percent (5%) of the total dwelling units shall be affordable to households having incomes no greater than 120% of the AMI adjusted for household size.~~

- (a) For inclusionary units offered as rental, the inclusionary units must be affordable to households having incomes at or below 80% AMI as defined in Section 18.01(D)(2).
- (b) For inclusionary units offered as home-ownership, the inclusionary units must be affordable to households having incomes at or below 100% AMI as defined in Section 18.01(D)(2).

(c) Where the application of this formula results in a fractional dwelling unit, that fractional dwelling unit shall be rounded to the nearest whole number (fractions that are greater than $n.00$ but less than $n.50$ are rounded down; fractions that are greater than or equal to $n.50$ but less than $n+1.00$ are rounded up).

~~(b) When the developer proposes to build at least 12 but fewer than 17 housing units, the requirement will be to include two (2) affordable dwelling units one of which shall be affordable to households whose incomes are no greater than 80% of AMI adjusted for household size and the other shall be affordable to households whose income is no greater than 100% of AMI adjusted for household size.~~

~~(c) When the developer is required to build a number of affordable dwelling units where the number of affordable dwelling units calculated by multiplying the total number of units by 15% is not evenly divisible by three, the first "remaining" dwelling unit must be affordable at the 80% AMI level adjusted for household size and, where applicable, the second "remaining" dwelling unit must be affordable at 100% AMI level adjusted for household size.~~

~~Example: The developer is required to build 13 affordable dwelling units. Four dwelling units must be affordable at the 80% of AMI adjusted for household size; four dwelling units must be affordable at the 100% of AMI adjusted for household size; four dwelling units must be affordable at the 120% of AMI adjusted for household size; and the "remaining" dwelling unit must be affordable at the 80% AMI adjusted for household size.~~

(2) Inclusionary units required under this section shall be:

(a) Constructed on site, unless off-site construction is approved under Subsection (E)(1)(b) (Off-Site Construction) of this Article, and integrated among market rate units in the development.

(b) Similar in architectural style and outward appearance to market rate units in the proposed development.

(i) Inclusionary units shall be constructed with the same exterior materials and architectural design details used in market rate construction. Similar exterior amenities and landscaping shall also be provided. However, the exterior dimensions of the inclusionary units may differ from those of the market rate units.

(ii) Inclusionary units shall be no less energy efficient than market rate units;

(iii) inclusionary units may differ from market rate units with regard both to interior amenities and to gross floor area. The average (mean) gross floor area of all inclusionary units, however, shall not be less than 70% of the average (mean) gross floor area of market rate units.

(iv) Inclusionary units developed as part of a housing development that includes market rate duplexes, triplexes, four-plexes or other multi-family dwellings may be of varied types. Inclusionary units developed as part of a single-family housing development may be accommodated in duplexes or multi-family dwellings that resemble the market rate single-family dwellings, ~~as allowed within the City Center Form Based Codes District.~~

(v) The number of bedrooms in inclusionary units shall be the same as the number of bedrooms in the market rate units, on a proportional basis. An alternative to precise proportionality is for the average number of bedrooms in the Inclusionary Units to be no less than the average number of bedrooms in the Market Units.

(c) Constructed and made available for occupancy concurrently with market rate units unless the Administrative Officer or Development Review Board, based on documentation from a financial institution denying financing, or physical site constraints, approves a plan allowing non-concurrent construction of the affordable units. Buildings containing the last 10% of market rate units shall not receive certificates of occupancy until certificates of occupancy are issued for all buildings containing inclusionary units, including when the inclusionary units are provided off-site as provided for in Subsection (E)(1)(b) (Off-Site Construction) of this Article.

D. Affordability Requirements. The bases for determining maximum rental and purchase prices for inclusionary units and applicant rental or purchaser household eligibility for accessing inclusionary units under this section are described below. The data used to determine the incomes, rents and purchase prices are updated annually by U.S. Department of Housing and Urban Development (HUD). The Vermont specific data is updated annually on the Vermont Housing Data website, managed by the Vermont Housing Finance Agency, in a table titled "Maximum rent and purchase price affordability thresholds by income and household size". Refer to this table in administration of this section.

~~(1) Affordability Determinations. Inclusionary units required under this section shall be affordable and marketed to income-eligible households as follows~~

~~(a) Maximum rent and purchase prices.~~

~~(a) For rentals, the maximum monthly rent for an inclusionary unit is one-twelfth of 30% of the targeted Area Median Income (80%) corresponding to the size of the specific unit (measured in number of bedrooms). This is the maximum monthly amount that may be charged for rent that includes all of the rental housing costs, as defined herein. When any component of the rental housing costs is excluded, the maximum rent allowed is reduced accordingly.~~

~~(b) For homeownership, the maximum monthly homeownership cost for an inclusionary Unit is one-twelfth of 30% of the targeted Area Median Income (80%) corresponding to the size of the specific unit (measured in number of bedrooms). This is the maximum monthly housing cost total for sales units, as defined herein.~~

~~(c) Maximum rent and purchase price calculation. Maximum Rents and Purchase Prices for Inclusionary Units are calculated based on three components: housing costs, area median income targets, and the number of bedrooms in the inclusionary unit. Housing costs for inclusionary units shall not exceed 30% of annual household income, adjusted for household size.~~

~~i. (i) Housing costs used to calculate the affordability of inclusionary units shall include:~~

~~(a) For rental units – rent (inclusive of any condominium or homeowners' association fees) and utilities (water, electricity and heating costs).~~

~~(b) (ii) For sale units – mortgage principal and interest, annual property taxes, average annual homeowner's insurance premiums, and average annual mortgage insurance premiums, and 50% of annual condominium or homeowners' association fees.~~

~~i. (b) Income eligibility shall be determined based on income guidelines, as adjusted for household size, published annually by the U.S. Department of Housing and Urban Development (HUD) for the Burlington-South Burlington Metropolitan Statistical Area (MSA), or on program-based income eligibility requirements established by a partnering housing organization. The AMI~~

~~shall be determined using the most recent income guidelines available at the time a unit is available for occupancy.~~

ii. Area Median Incomes (AMI) Targets. The U.S. Department of Housing and Urban Development (HUD) estimates the Area Median Income for households residing in the Burlington-South Burlington Metropolitan Statistical Area (MSA) and, in addition, for households of varying sizes residing in the MSA. HUD also calculates AMI ratios, including 80% AMI, for households of varying sizes in the MSA. HUD publishes this AMI-based annual household income information annually. Maximum rents and sales prices shall be determined using the most recent HUD-published income guidelines available at the time the unit is available for occupancy.

iii. Number of bedrooms. Rental and purchase prices of inclusionary units are not linked to the size of the household that rents or purchases the inclusionary unit. Number of bedrooms is used to define a household size linked to the specific unit. The use of “number of bedrooms” for this purpose is explained under the Vermont Housing Data website’s annual maximum rent and purchase price tables entitled “Maximum rent and purchase price affordability thresholds by income and household size”.

Table 18-1 HUD Formula for Determining Maximum Rents and Purchase Prices	
Unit Size	Household — Size Equivalent¹
Efficiency/Studio	1
One-Bedroom Unit	1.5
Two-Bedroom Unit	3
Three-Bedroom Unit	4.5
Four-Bedroom Unit	6

~~(d) — With respect to inclusionary units offered for sale, sale prices shall be calculated based on an available fixed rate, 30-year mortgage, consistent with a blended rate for banks or other lending institutions offering mortgages in South Burlington, or a lower Vermont Housing Finance Agency~~

¹The maximum allowable rent or sales price is based on the designated AMI level (80%, 100%, or 120%) corresponding to the “Household Size Equivalent” in the table above that matches the number of bedrooms in the housing unit. The result is that the maximum rent or sales price for a particular affordable unit is the same for all eligible households seeking to rent or purchase that affordable housing unit.

For example, the maximum rent or sales price for a one-bedroom inclusionary unit is determined using the average of the applicable AMI level for one- and two-person households. Note that the applicant household’s income is not used to determine the maximum rent or sales price of a particular inclusionary housing unit.

~~(VHFA) rate if the developer can guarantee the availability of VHFA mortgages at this rate for all required inclusionary units. The calculated price shall assume a down payment of no more than 5% of the purchase price.~~

(2) Renter and Home-buyer Income Eligibility. Income eligibility for an applicant household is determined based on three components: Household Size, Household Income and Annual Median Income (AMI) targets for Inclusionary Units. Household Size and Household Income are included in Article 2 DEFINITIONS. The AMI amounts for applicants seeking to rent or purchase an Inclusionary Unit shall be determined using the most recent HUD-published income guidelines available at the time the unit is available for occupancy.

(a) For renters, households regardless of household size, are eligible for inclusionary units so long as their combined household income does not exceed 80% AMI.

~~(a)~~(b) For home-buyers, households regardless of household size, are eligible for inclusionary units so long as their combined household income does not exceed 100% AMI.

(3) Flexibility between maximum rent and purchase prices and eligible renter or purchaser households.

(a) Eligible renter or purchaser households may rent or purchase an Inclusionary Unit whose rent or purchase price is linked to a household size (derived from number of bedrooms) that is not the same as the Eligible Household's size.

Examples:

- a two-person household may purchase a three-bedroom house or condominium.
- a three-person household may rent a one-bedroom apartment.

(b) Eligible renter or purchaser households may rent or purchase an Inclusionary Unit whose AMI target is higher than the Eligible Household's AMI percentage.

Examples:

- a three-person household whose income is 70% of AMI (for its household size) may rent an apartment whose rent is targeted to 80% of AMI.
- a two-person household whose income is 90% of AMI (for its household size) may purchase a condominium or house whose price is targeted to 80% of AMI.

(c) Eligible renter or purchaser households may rent or purchase an Inclusionary Unit whose housing costs exceed 30% of the Eligible Household's income.

(4) Alternative Eligibility Criteria. When an affordable housing organization is a partner in a covered development, eligibility may be determined in accordance with program-based eligibility requirements established by the partner housing organization.

(25) Continued Affordability. An inclusionary unit shall remain affordable in perpetuity commencing from the date of initial occupancy, through a deed restriction, restrictive covenant, or

through purchase by or a contractual agreement with a local, state or federal housing authority or nonprofit housing agency, to be reviewed by the City Attorney and approved by the City Manager prior to recording in the City of South Burlington Land Records. Any deed restriction, covenant or other instrument or agreement ensuring the continued affordability of inclusionary units shall include:

(a) Resale Restrictions. Provisions to ensure the affordability of units offered for sale shall include a covenant that limits the resale price to whatever is the higher of what the seller bought it for, or what is affordable to a household at 80% AMI at the time of resale, or a covenant provided by a non-profit affordable housing agency that is approved by the City. formula for limiting equity appreciation to an amount not to exceed 25% of the increase in the unit's value, as determined by the difference between fair market appraisals of the unit at the time of purchase and the time of resale, with adjustments for improvements made by the seller and the necessary costs of sale, as may be approved by the City Manager. In addition, the City shall have the option to purchase or transfer its option to purchase owned inclusionary units at each future time of resale.

(i) The seller or his/her representative shall notify the City Manager or his/her designee of the prospective sale of an owned inclusionary unit;

(ii) The City Manager or his/her designee, in consultation with the members of the Housing Trust Fund, shall then have an exclusive option for thirty (30) days to purchase the owned inclusionary unit from the seller at a price consistent with the requirements of this subsection unless waived or transferred;

(iii) If the City Manager or his/her designee, in consultation with the members of the Housing Trust Fund, fails to exercise such option by failing to negotiate and sign a purchase and sale agreement for purchase of the owned inclusionary unit, or declaring an intent not to exercise such option, the seller shall offer the owned inclusionary unit for purchase to income-eligible households in accordance with the requirements of subsection 18.01(D) (Affordability Requirements).

(iv) On or before a purchase and sale agreement is executed between the seller and the City Manager or his/her designee, s/he may assign the City's option specified in this subsection to purchase the owned inclusionary unit to a 501(c)(3) organization whose primary purpose is the development of affordable housing. Upon the decision to exercise this transfer option, the City Manager or his/her designee shall notify the seller of such assignment and the organization to which the City has assigned the option, which organization shall deal directly with the seller and shall have all of the authority of the City Manager, as provided under this subsection.

(b) Rent ~~Increases~~Changes. Provisions to ensure the affordability of rental units shall require that limit annual rent changes not exceed increases to the percentage increase change in the median household income within the Burlington-South Burlington MSA, when the change is an increase; and that annual rent changes match the percentage change in the median household income within the Burlington-South Burlington MSA, when the change is a decrease. An exception to the limit on increases or required decreases is permitted to the extent that further increases or delayed decreases are made necessary by documented hardship or other unusual conditions. ~~and shall provide that no rent increase. Such exceptions may not take effect until it has received the written approval of approved in writing by~~ the City Manager;

(c) Sublet Restrictions. Provisions for inclusionary rental units shall prohibit the subletting of units at rental rates that exceed affordability limits established pursuant to this section.

(36) Reporting Requirements. Annually, the owner of a project that includes inclusionary rental units shall prepare and submit a report to the City Manager that lists the gross rents charged for inclusionary

units and the household move-in incomes of unit tenants, and certifies that unit affordability has been maintained as required.

E. Developer Options

(1) Options (a) and (b) below are available to developers, upon request, as necessary to address ~~documented~~ financial hardships based on documentation from a financial institution denying financing or physical site constraints that limit or preclude the incorporation of inclusionary units within a covered development. Options (c) and (d) are available to the developer at his or her discretion. A payment or contribution in lieu of constructing required inclusionary units shall be prohibited.

(a) Dedication. The South Burlington City Council, in consultation with the ~~entity designated by the City Council (for example, a permanent~~ South Burlington Affordable Housing Committee ~~or South Burlington Affordable Housing Board~~), may accept as an alternative to the development of inclusionary units, a dedication by the developer of equal or greater value, including land and expected inclusionary unit value, that furthers the purposes of this section. An example might be the donation of developable land in the City Center Form Based Codes District that provides accessibility to transit, employment opportunities, and services.

(b) Off-Site Construction. The developer of a covered development may comply with the requirements of this section by constructing, within two years of receiving a permit for the covered development, the required number of inclusionary units on another site within the same contiguous boundary of the zoning district in which the covered development is located ~~City Center Form Based Codes District~~, or contracting with another entity to construct the required number of units within the same contiguous boundary of the zoning district in which the covered development is located. This condition shall not be considered satisfied until certificates of occupancy have been issued for all off-site inclusionary units in the City Center Form Based Codes District. Off-site means outside the boundaries of the Planned Unit Development, Subdivision or Site Plan of the covered development.

(c) A developer who constructs inclusionary units having three bedrooms shall receive credit for three inclusionary units for every two three-bedroom inclusionary units constructed.

(d) A developer who constructs inclusionary units having four bedrooms shall receive credit for four inclusionary units for every two four-bedroom inclusionary units constructed.

F. Offset for Fulfillment of Inclusionary Unit Requirements

(1) Residential Unit Offset. To offset an applicant's fulfillment of this Section's inclusionary unit requirement is an allotment of one additional dwelling unit for each required rental inclusionary unit that is constructed; or an allotment of two additional dwelling units for each required inclusionary homeownership unit that is constructed. This offset shall not be provided for any required unit for which the developer receives approval for the Dedication as described in 18.01 E.(1)(a) herein.

(a) Offset residential units are not subject to the inclusionary affordability requirements.

(b) The offset described above shall be approved as long as the total housing units in the specific covered development do not result in non-compliance with Section 15.02(A)(4).

Example (1): In a 24-unit owner housing development on a six-acre plot in a R4 district, the developer is required to build two (2) inclusionary units. The developer shall receive an offset of four (4) market rate dwelling units, and the project now includes a total of 28 dwelling units.

Example (2): In a 36-unit rental housing development on a three-acre plot in a R12 district, the developer is required to build five (5) inclusionary units. The developer shall receive an offset of five (5) market rate dwelling units, and the project now includes a total of 41 dwelling units.

G. Density Bonuses for Exceeding Inclusionary Housing Requirements

(1) **Applicability.** This subsection applies in zoning districts or portions thereof as defined in Subsection (B)(1) (Applicability - Zoning Districts and Locations) of this Article, in which residential development is permitted. However, density is not a dimensional requirement in the City Center Form Based Code districts, therefore this section is not relevant in those districts.

(2) **Density Bonuses.** When an applicant voluntarily includes, in the base zoning density unit-maximum for the development, more than the number of inclusionary units required under Section 18.01.C.1, upon the applicant's request, the development shall, in addition to the offset units, receive a density bonus. The density bonus shall be one dwelling unit for each voluntary inclusionary rental unit and two dwelling units for each voluntarily inclusionary homeownership unit, up to a maximum density no greater than 50% more than the base density. Density bonus dwelling units are not subject to the inclusionary affordability requirements.

Example (1): In a 24-unit owner housing development on a six-acre plot in a R4 district, the developer is required to build two (2) inclusionary units. The developer shall receive an offset of four (4) market rate dwelling units, and the project now includes a total of 28 dwelling units. In order to receive approval for the maximum 50% density increase (which equates to a maximum of 8 additional units in this example since the offset units need to be accounted for), the developer includes an additional four (4) inclusionary units in the base zoning density unit-maximum (24) for which the developer receives 12 bonus density units. In sum, the total project includes 36 units, 6 of which are inclusionary (17% of the units) and 30 of which are market rate (83% of the units).

Example (2): In a 36-unit rental housing development on a three-acre plot in a R12 district, the developer is required to build five (5) inclusionary units. The developer shall receive an offset of five (5) market rate dwelling units, and the project now includes a total of 41 dwelling units. In order to receive approval for the maximum 50% density increase (which equates to a maximum of 13 additional units in this example since the offset units need to be accounted for), the developer includes an additional thirteen (13) inclusionary units in the base zoning density unit-maximum (36) for which the developer receives 13 bonus density units. In sum, the total project includes 54 units, 18 of which are inclusionary (33% of the units) and 36 of which are market rate (67% of the units).

Example (3): In a 40-unit owner housing development on a ten-acre plot in a R4 district, the developer is required to build four (4) inclusionary units. The developer shall receive an offset of eight (8) market rate dwelling units, and the project now includes a total of 48 dwelling units. In order to receive approval for the maximum 50% density increase (which equates to a maximum of 12 additional units in this example since the offset units need to be accounted for), the developer includes an additional six (6) inclusionary units in the base zoning density unit-maximum (40) for which the developer receives

12 bonus density units. In sum, the total project includes 60 units, 10 of which are inclusionary (17% of the units) and 50 of which are market rate (83% of the units).

Example (4): In a 40-unit rental housing development on a 10-acre plot in a R4 district, the developer is required to build six (6) inclusionary units. The developer shall receive an offset of six (6) market rate dwelling units, and the project now includes a total of 46 dwelling units. In order to receive approval for the maximum 50% density increase (which equates to a maximum of 14 additional units in this example since the offset units need to be accounted for), the developer includes an additional fourteen (14) inclusionary units in the base zoning density unit-maximum (40) for which the developer receives 14 bonus density units. In sum, the total project includes 60 units, 20 of which are inclusionary (33% of the units) and 40 of which are market rate (67% of the units).

H. Affordable Housing Density Bonuses for Developments with Fewer than 12 Dwelling Units

(1) **Applicability.** This subsection applies in zoning districts or portions thereof as defined in Subsection (B)(1) (Applicability - Zoning Districts and Locations) of this Article, in which residential development is permitted. However, density is not a dimensional requirement in the City Center Form Based Code districts, therefore this section is not relevant in those districts.

(2) **Density Bonus.** For applications that include at least three (3) but fewer than twelve (12) dwelling units (calculated using the base zoning density unit-maximum for the development), where the developer has opted to construct one or more units that qualify as inclusionary priced at or below the 80% of AMI level, such approval shall, upon request of the applicant, include a density bonus over the base zoning density. The density bonus shall be one dwelling unit for each inclusionary rental unit and two dwelling units for each inclusionary homeownership unit included voluntarily up to a maximum density of no greater than 50% more than the base density. These bonuses apply to both rental and home-ownership developments with fewer than 12 units in which the developer voluntarily provides inclusionary units eligible to households at or below 80% AMI for rentals and 100% AMI for homeownership. The density bonus units are not subject to the inclusionary affordability requirements.

I. Parking Requirements. The number of parking spaces required for each inclusionary unit shall be no greater than one space per unit.

FJ. Administration and Compliance

(1) Application Requirements. In addition to other submission requirements applicable to proposed projects specified within this bylaw, applications under this section shall include the following information:

- (a) A site or subdivision plan that identifies the number, locations, types, and sizes of inclusionary units in relation to market rate units;
- (b) Documentation supporting the allocation of inclusionary and market rate units, including inclusionary unit set aside calculations;
- (c) A description of each unit's type, floor area, number of bedrooms, estimated housing costs, and other data necessary to determine unit affordability;

- (d) A list of proposed options, if any, to be incorporated in the plan, as provided for under Subsection (E) (Developer Options) of this Article;
- (e) Documentation regarding household income eligibility;
- (f) Information regarding the long-term management of inclusionary units, including the responsible party or parties, as required to ensure continued affordability;
- (g) Draft legal documents required under this section to ensure continued affordability;
- (h) Construction timeline for both inclusionary and market rate units; and
- (i) Other information as requested by the Administrative Officer to determine project compliance with inclusionary zoning requirements.

(2) Application Compliance Officer. The Administrative Officer (AO) is responsible for certifying, in writing, whether a development application is in compliance with the inclusionary zoning requirements specified in Subsection ~~(F)~~(1) (Application Requirements) of this Article. In cases in which the AO determines the application is not in compliance, he or she shall specify the areas of non-compliance.

(3) Application Review and Decision-Making. Depending on the approval authority of the base application either the Development Review Board or Administrative Officer shall review and approve, approve with conditions, or deny applications for developments subject to the inclusionary requirements of Section 18.01 that are located in the applicable locations defined in Subsection (B)(1) (Applicability - Zoning Districts and Locations) of this Article.

(4) Ongoing Compliance. The City of South Burlington Housing Authority, if any; another municipal entity; or a bona fide qualified non-profit organization, as determined by the South Burlington City Council, shall be responsible for the on-going administration of the inclusionary units as well as for the promulgation of such rules, regulations, and/or procedures as may be necessary to implement this program. The Housing Authority, other municipal entity, or non-profit organization shall define and implement eligibility priorities, continuing eligibility standards and enforcement, and rental and sales procedures.

~~(5)~~ Program Evaluation. In order to monitor and track the success of inclusionary zoning in meeting the purposes of this section and the City's affordable housing goals and targets, the City Manager shall:

- (a) Collect and maintain income eligibility guidelines, mortgage interest rate information, and other information necessary to meet the requirements of this section;
- (b) Monitor and maintain records regarding the status of inclusionary units developed under this Section 18.01; and
- (c) Prepare an annual written report for distribution to the South Burlington City Council and Planning Commission and posting on the City's website, to be considered in a public meeting, that summarizes the status of covered projects and inclusionary units approved to date, and sets forth program findings, conclusions, and recommendations for any changes that will increase the effectiveness of inclusionary zoning.

18.02 Affordable Housing Density Bonus

A. Purpose. One of the adopted Comprehensive Plan goals is the availability of quality housing and quality affordable housing to attract and retain a qualified work force. The following provisions are established to enable the City of South Burlington to ensure a supply of standard housing available at below-market rate purchase prices or rents. In this way, a choice of housing opportunities for a variety of income groups within the City can be created in accordance with the Comprehensive Plan and these Regulations.

B. Applicability. This section shall apply in any Zoning District in which residential development is permitted, with the exception of the applicable locations defined in Section 18.01 (B)(1) (Applicability - Zoning Districts and Locations) of this Article~~City-Center Form-Based Codes District.~~

C. Density Increase. On a case by case basis and as part of the Planned Unit Development application, the Development Review Board may grant an increase in residential density over the base zoning density, in order to create below market rate housing. The density increases shall be approved on the following criteria and standards:

(1) **Affordable Housing Development.** The Development Review Board may grant a density increase of no more than fifty percent (50%) in the total number of allowed dwelling units for an Affordable Housing Development. The total of below market rate units shall be at least half of the total proposed dwelling units. Where the total proposed dwelling units is an uneven number, the total of below market rate units shall be calculated as at least the total proposed dwelling units, less one (1), divided by two. Such application shall be subject to Article 14, Site Plan and Conditional Use Review, and Article 15, Subdivision and Planned Unit Development Review.

(2) **Mixed Rate Housing Development.** The Development Review Board may grant a density increase of no more than twenty-five percent (25%) in the total number of allowed dwelling units for a Mixed Rate Housing Development. For each additional market-rate dwelling unit produced as a result of the density increase, one (1) comparable below market rate unit must be provided. Such application shall be subject to Article 14, Site Plan and Conditional Use Review, and Article 15, Subdivision and Planned Unit Development Review.

Table 13-9 Example of Affordable Housing Bonus Calculation

Affordable Project: 50% of Total Units Affordable		Mixed-Rate Project: 25% of <i>Bonus</i> Units Affordable	
Acres	8.35	8.35	
Base Density	12	12	
Base Units	100.2*	100.2*	
Bonus Units	50	25	
Total Units	150	125	
Net Density	17.98	14.99	
Affordable Units	74	13	
Market Rate Units	74	112	

**Partial units always round DOWN to the lower whole number of units*

D. Criteria for Awarding Density Increase. In addition to the standards found in Article 14, Site Plan and Conditional Use Review, ~~and~~ Article 15, Subdivision and Planned Unit Development Review, the following standards shall guide the Development Review Board:

- (1) The density upon which a bonus may be based shall be the total acreage of the property in question multiplied by the maximum residential density per acre for the applicable zoning district or districts.
- (2) Within the Residential 1 and Residential 2 zoning districts, the provisions of this Section 13.14 shall apply only to properties of five (5) acres or more, and the maximum allowable residential density with or without such a density increase shall be four (4) dwelling units per acre.
- (3) Development Standards.
 - (a) Distribution. The affordable housing units shall be physically integrated into the design of the development in a manner satisfactory to the Development Review Board and shall be distributed among the housing types in the proposed housing development in the same proportion as all other units in the development, unless a different proportion is approved by the Development Review Board as being better related to the housing needs, current or projected, of the City of South Burlington.
 - (b) Minimum Floor Area. Minimum gross floor area per affordable dwelling unit shall not be less than comparable market-rate units in the housing development.
 - (c) Plan for Continued Affordability. The standards for Section 18.01(D)(~~25~~) shall apply.
- (4) Administration. The City of South Burlington Housing Authority, if any, or a bona fide qualified non-profit organization shall be responsible for the on-going administration of the affordable housing units as well as for the promulgation of such rules and regulations as may be necessary to implement this program. The Housing Authority or non-profit organization will determine and implement eligibility priorities, continuing eligibility standards and enforcement, and rental and sales procedures.

E. Housing Types. The dwelling units may at the discretion of the Development Review Board be of varied types including one-family, two-family, or multi-family construction, and studio, one-bedroom, two-bedroom, three-bedroom and four-bedroom apartment construction.

18.03 Housing Preservation

A. Purpose. The intent of this Section is to achieve one or more of these goals:

- (1) To promote the health, safety and general welfare of the community by preserving existing housing stock in residential neighborhoods, particularly the supply of affordable and moderately-priced homes through the use of housing retention requirements as referenced in South Burlington's 2016 Comprehensive Plan;
- (2) To reduce and mitigate the demolition and conversion to nonresidential use or nonuse of residential structures, and to maintain housing that meets the needs of all economic groups within the City particularly for those of low and moderate income;
- (3) To meet the specific mandates of 24 V.S.A. Section 4302(11) related to housing opportunities for safe and affordable housing for all Vermonters and to meet the needs of the diverse social and income groups in each Vermont community;
- (4) To support the retention of housing units in the City;

- (5) To promote the health safety and welfare of the community by preserving the residential character of neighborhoods; and,
- (6) To offset the loss of housing by requiring replacement of housing units with new construction, conversion of nonresidential to residential use or a contribution to the City of South Burlington Housing Trust Fund.

B. Applicability. Except as otherwise provided in sub-section C (Exemptions), this Section 18.03 of these Regulations is applicable to the loss, demolition or conversion to a nonresidential use or nonuse (for example a vacant lot) of any dwelling unit in the City. This includes without limitation any of the following:

- (1) any dwelling unit that is demolished, removed, or declared unfit for habitation pursuant to any order, decision or other action of the City or State that is caused by unreasonable neglect or deferred maintenance of an existing or prior owner(s);
- (2) any dwelling unit that is demolished or removed pursuant to any municipal, State or Federal program, including any air traffic or airport noise mitigation and compatibility program; and/or,
- (3) the loss, demolition or conversion to nonresidential use or non-use of any other form of permanent housing, including but not limited to housing units contained within a housing facility that is permitted as a congregate care facility, except group homes, residential care facilities, or skilled nursing facilities as defined in these Regulations.

C. Exemptions. This Section shall not be applicable to:

- (1) The redevelopment of a dwelling unit or any other form of permanent housing, including but not limited to housing units contained within a housing facility that is permitted as a congregate care facility, within a two (2) year period. Any applicant for a demolition permit seeking to avail themselves of this exemption shall be required to obtain a Certificate of Occupancy within two (2) years of the date of issuance of the demolition permit thereby demonstrating redevelopment of the dwelling unit and restoration of the residential use on the same parcel.
- (2) Any dwelling unit ordered demolished or declared unfit for habitation because of damage caused by civil commotion, malicious mischief, vandalism, natural disaster, fire, flood or other causes beyond the owner's control.
- (3) Dwelling units existing in the following zoning districts: City Center Form Based Code, Industrial – Open Space, Mixed Industrial & Commercial, Swift Street, Institutional-Agricultural, Parks & Recreation, Municipal, Commercial 1-AIR, Airport, and Airport-Industrial.
- (4) The conversion of a duplex to a single-family home.
- (5) As of the initial effective date of this Section, any dwelling units:
 - (a) For which the Burlington International Airport / City of Burlington has obtained Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grant funding approval for the acquisition, demolition or removal pursuant to the FAA's Part 150 Noise Compatibility Program. This includes the dwelling units identified in FAA AIP grant numbers, AIP-94, AIP-105, and AIP-109 whether or not these dwelling units have been purchased or removed as of January 1, 2018.
 - (b) Indicated on the 2009 Burlington International Airport Part 150 Noise Inventory and Re-Use Plan "Proposed Property Acquisition Program" map, Figure 4: Detailed Acquisition Plan, dated April 23, 2009.

See Appendix H for a complete listing of properties by address.

- (6) The removal of accessory dwelling units.

D. Approval. Notwithstanding any other provision of these Regulations and unless otherwise exempt under sub-section C of this Section, no dwelling unit shall be removed, demolished, or converted to a nonresidential use or nonuse, without receipt of a zoning permit in accordance with this Section.

In addition to any other submission requirements in these Regulations, the applicant shall submit as part of a zoning permit application under this Section:

- (1) A statement certifying the number of dwelling units to be demolished or converted to nonresidential use and the number of bedrooms existing within each of these units;
- (2) A demonstration of compliance with tenant or occupant notice and relocation provisions of applicable state and federal law; and
- (3) A demonstration of compliance with sub-section E, F and G (if applicable) of this Section.

E. Housing replacement requirement. In addition to any other requirements for approval under these Regulations, approval of the zoning permit referred to in Sub-section D above requires the replacement of each dwelling unit that is to be removed, demolished, or converted to nonresidential use or nonuse with a replacement dwelling unit. Any dwelling unit approved under Section 18.01 or 18.02 shall not qualify as a replacement dwelling unit. This replacement requirement may be satisfied in one of the following ways:

- (1) Construction of a new dwelling unit in accordance with sub-section F of this Section;
- (2) The conversion of a non-residential building to residential use in accordance with sub-section F of this Section; or,
- (3) Contribution to the Housing Trust Fund. Payment to the City of South Burlington's Housing Trust Fund for each dwelling unit that is removed, demolished, or converted to nonresidential uses or nonuse in an amount equal to twenty-five percent (25%) of the higher of (1) the most recent assed valuation the premises as modified by the CLA (Common Level of Appraisal) or (2) the most recent sales price of the premises.

F. Replacement Dwelling Unit Requirement. In addition to the foregoing, all replacement dwelling units built pursuant to this Section must meet the following requirements:

- (1) Each replacement dwelling unit shall have at least the same number of bedrooms as the dwelling unit being replaced;
- (2) Each replacement dwelling unit must be located within the City of South Burlington;
- (3) Each replacement dwelling unit must receive a Certificate of Occupancy within eighteen (18) months of the date on which the zoning permit referenced in Sub-section D above is approved;
- (4) Each rental replacement dwelling unit(s) must be maintained either as a Group Home or as a leased "Affordable Housing" unit, as that term is defined in Article 2 of these Regulations to prospective occupants who are income eligible at the time they first lease the unit, for a period of not less than twenty (20) years from the date of first occupancy.
- (5) Each non-rental replacement dwelling unit(s) must be offered for sale either:
 - (a) At or below the fair market value of the dwelling unit that was removed, demolished, or converted to nonresidential use or nonuse, as determined either (i) by an appraisal provided by the

applicant, or (ii) by the City's latest assessed value of the premises including the dwelling unit that was removed, demolished, or converted to nonresidential use or to nonuse; or

(b) As an "Affordable Housing" unit, as that term is defined in Article 2 of these Regulations, to prospective purchaser/occupants who are income eligible at the time they purchase the unit. Any such unit shall be subject to a covenant restricting the sale of the dwelling unit for a twenty (20) year period to an owner/occupant who qualifies by income.

(6) Income eligibility for replacement units described in this subsection shall be determined based on income guidelines, as adjusted for household size, published annually by the U.S. Department of Housing and Urban Development (HUD) for the Burlington-South Burlington Metropolitan Statistical Area (MSA), or on program-based income eligibility requirements established by a partnering housing organization. The income eligibility shall be determined using the most recent income guidelines available at the time a unit is available for occupancy.

G. Performance Guaranty/Letter of Credit. When an applicant proposes to construct a new replacement dwelling unit or convert a non-residential building to a replacement residential unit, the applicant must post a performance guaranty in the form of a letter of credit, or other security acceptable to the City Attorney, in the amount equivalent to the amount the applicant would have been required to contribute to the City of South Burlington's Housing Trust Fund if the applicant had chosen that option pursuant to Sub-section E(3), above. Such a performance guaranty shall be valid for no more than two (2) years, after which the full amount due shall be provided to the City of South Burlington's Housing Trust Fund if a replacement dwelling unit satisfying the conditions of this Section has not been granted a Certificate of Occupancy as a dwelling unit.

H. Administration. The City of South Burlington Housing Authority, if any, or a bona fide qualified non-profit organization approved by the City of South Burlington following demonstration of its qualifications shall be responsible for the on-going administration of this section as well as for the promulgation of such rules and regulations as may be necessary to implement this section. The Housing Authority or non-profit organization will determine and implement eligibility priorities, continuing eligibility standards and enforcement, and rental and sales procedures.

I. Violations. In the event of a violation of this Section, an enforcement action in accordance with Article 17 shall commence and the requirements of this Section shall apply in addition to any other remedies available to the City by law.



South Burlington Planning Commission Proposed Land Development Regulations Amendment & Adoption Report Planning Commission Public Hearing December 10, 2019

In accordance with 24 V.S.A. §4441, the South Burlington Planning Commission has prepared the following report regarding the proposed amendments and adoption of the City's Land Development Regulations.

Outline of the Proposed Overall Amendments

The South Burlington Planning Commission will hold a public hearing on Tuesday, December 10, 2019 at 7:00 pm, in the City Hall Conference Room, 575 Dorset Street, South Burlington, VT to consider the following amendments to the South Burlington Land Development Regulations:

- A. LDR-19-13A: Modify existing Inclusionary Zoning requirements and extend applicability to include all lands that underlie the Transit Overlay District, all lands within the City Center Form Based Code District, and all lands in the vicinity of Hinesburg Road and Old Farm Road that are north of I-89 and are outside the Transit Overlay District.
- B. LDR-19-13B: Modify Affordable Housing Density Bonus standards as follows: (1) reduce applicable area to only those areas not subject to proposed Inclusionary Zoning standards [LDR-19-13A], and; (2) adjust requirements for income eligibility and continued affordability for all remaining parts of the City.

Brief Description and Findings Concerning the Proposed Amendments

The proposed amendments have been considered by the Planning Commission for their consistency with the text, goals, and objectives of the City of South Burlington's Comprehensive Plan, adopted February 1, 2016. For each of the amendments, the Commission has addressed the following as enumerated under 24 VSA 4441(c):

"...The report shall provide a brief explanation of the proposed bylaw, amendment, or repeal and shall include a statement of purpose as required for notice under section 4444 of this title, and shall include findings regarding how the proposal:

- (1) *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*
- (2) *Is compatible with the proposed future land uses and densities of the municipal plan.*

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

Brief explanation of the proposed bylaw.

The proposed bylaw would extend and modify the Inclusionary Zoning requirements in the City Center Form Based Code District to encompass all lands within the Transit Overlay District and portions of land north of I-89 in the vicinity of Hinesburg Road & Old Farm Road, and would modify income eligibility & continued affordability standards in the Affordable Housing Density Bonus standards elsewhere in the City. Where Inclusionary Zoning requirements are extended, they would replace the Affordable Housing Density Bonus standards.

Specifically, Inclusionary Standards include the following structure:

- Required for projects with 12 or more new dwelling units.
- 10% of homeownership units and 15% of rental units must be affordable in perpetuity at prices/rents affordable to households earning 80% of Area Median Income (AMI). For ownership units, actual income eligibility would be up to 100% of AMI.
- Developer Offsets and Incentives. One additional market rate unit for every one required inclusionary unit (rentals) and two additional market rate units for every one required inclusionary unit (ownership) would be granted above the maximum zoning for the district.
- Parking requirements for inclusionary units are “no greater than one space per unit.
- Developer Bonus: A developer providing a greater proportion of dwelling units at or below 80% of AMI and meeting inclusionary requirements receiving additional market rate units at the same ratios as for offset units, up to maximum total increase of 50% density increase. Note: this figure is unchanged from the current maximum allowable bonus.
- Alternatives available to developer: land dedication in lieu of inclusionary unit construction and off-site construction of inclusionary units.
- Units must remain affordable at the rates described above in perpetuity upon resale or new tenants, adjusted for inflation.

Outside of the Inclusionary Zoning applicable areas, the proposed amendment would allow households earning up to 100% of AMI to purchase a dwelling unit; units would be required to remain affordable to households earning 80% of AMI, and continued affordability standards would mirror those for Inclusionary Zoning.

- (1) *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*

The proposed amendments are intended to support the economic integration of housing in a manner that both supports affordability objectives and is attainable by the development community. The Comprehensive Plan includes the following objectives and strategies:

Vision & Goals: Be affordable, with housing for people of all incomes, lifestyles, and stages of life;

Objective 2. Offer a full spectrum of housing choices that includes options affordable to households of varying income levels and sizes by striving to meet the housing targets set forth in this Plan.

Strategy 4. Implement a variety of tools and programs to foster innovative approaches to preserving and increasing the City's supply of affordable and moderate income housing. Potential tools should be explored and could include form-based codes that would allow a variety of residential and mixed use building types, transferable development rights, neighborhood preservation overlay districts, household definition regulations, inclusionary zoning, bonuses and incentives, waivers and expedited review processes, and/or a housing retention ordinance.

Strategy 10. Develop strategies that can lead to the availability or development of more housing that is affordable to middle income, working residents and families in the City...

Strategy 13. Target for construction, by 2025, of 1,080 new affordable housing units - 840 housing units affordable to households earning up to 80% of the AMI and 240 housing units affordable to households earning between 80% and 120% of the AMI.

(2) *Is compatible with the proposed future land uses and densities of the municipal plan.*

The proposed amendments would replace existing allowances of density bonuses of either 25% or 50% with an inclusionary requirement.

The requirement is accompanied by an offset allowance of 15%-20% in density increase (rental & ownership) as an incentive to applicants as required under 24 VSA Chapter 117. In addition, applicants electing to provide a greater proportion of dwelling units at the Inclusionary Zoning eligibility thresholds would receive additional market rate units for each. The maximum total density increase in that instance would be 50%, commensurate with the current maximum.

The Comprehensive Plan includes the following relevant objective:

Objective 39. The majority of all new development will occur within the Shelburne Road, Williston Road, and Kennedy Drive Corridors, and other areas within the Transit service area.

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

The amendments do not impact specific proposals for any planned community facilities.

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur*

Burlington Joint Planning Commission

Wednesday, October 30, 2019, 6:30 P.M.

City Hall, 149 Church Street, Burlington, VT

Minutes

Members Present	Planning Commission: H Roen, E Lee, Y Bradley, B Baker, J Wallace Brodeur City Council: A Roof, C Mason, S Bushor
Members Absent	A Montroll, A Friend
Staff Present	M Tuttle, D White, S Durmick, I Jakus

I. Agenda

Call to Order	Time: 6:30
Agenda	No changes to the agenda

II. Public Forum

Name	Comment	Commission Action
Steven Marshall	Declared Burlington's need for more affordable housing and encouraged eliminating single-family zoning	
Tammie Brownell	Affirmed that she has everything she needs to create an Accessory Dwelling Unit (ADU) except for meeting the parking requirement, and therefore hopes that said requirement will be changed.	
Jack Hanson	Advocated for the prospect of eliminating parking minimums, revising parking maximums, and simultaneously incentivizing alternative modes of transportation.	
Richard Watts	Expressed the benefits of Transportation Demand Management (TDM) programs at UVM, and would like to see aspects of this program expanded to the City.	
Joan Shannon	Proposed that the Commission consider the potential of a bowling alley addition to the South End Enterprise Zone. Encouraged the elimination of the stacked and tandem parking restrictions for ADUs.	
Amy Magyar	Encouraged the elimination of stacked parking restrictions for ADUs. Suggested that different parking requirements be considered for ADUs being used as Short Term Rentals (STRs).	
Kirby Dunn	Expressed the need for ADUs to be thought of as owner occupied housing, and for the removal of any double standards which make it more difficult to construct an ADU than a single-family home. She would like to see the ADU	

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Wednesday, October 30, 2019

	process simplified, and if not possible in all neighborhoods, to start in Wards 4 & 7.	
Jason Van Driesche	Recommended a book for the Committee to read: <i>Thank you for being Late: An Optimist's Guide to Living in the Age of Accelerations</i> by Thomas Friedman and encouraged maximum flexibility for all of these ordinances.	
Adam Frowine	Encouraged the City to address the lack of affordable housing in creative ways amongst the community, and believes ADUs are a step in the right direction. Pointed out that those who have the most to gain don't have the opportunity to be at the meeting.	
Laura Jacoby	Dismayed to see that there was no discussion to put the money saved from not building parking into a fee that funds alternative modes of transportation.	
Madeline	Advocated for any policies that advance sustainable, active, and effective mass public transit to reduce the region's carbon footprint.	
Tyler Maas	Shared an update on legislation that passed in California in 2017 to make it easier to develop ADUs: Los Angeles went from developing 250 annually to 4,000 ADU permits drawn in 2018. Now people are asking for laws to become even more accommodating.	
Patrick Murphy	Encouraged the Committee to consider costs for residential parking permits, replace current parking minimums with maximums, require developers to provide TDM initiatives, and all other reforms which potentially encourage alternative modes of transportation.	
Erhard Manke	Encouraged the Committee to do what they can to liberalize ADU initiatives to help with Burlington's affordable housing crisis. Concerned ADUs will only become a vehicle to create STRs instead of increasing the housing stock.	

III. Proposed CDO Amendment: ZA-20-03 Accessory Dwelling Units

Action: Approved municipal bylaw amendment report and warned for public hearing.		
Motion by: E Lee	Second by: H Roen	Vote: Approved Unanimously <i>(vote included Planning Commission members only)</i>
Type: Discussion & Action	Presented by: M Tuttle	
Discussion/Notes: J M Tuttle shared information on the issue of lot coverage as a limitation for individuals looking to build ADUs, particularly how it impacts neighborhoods in a significantly different way, and discuss the proposed solution of a lot coverage waiver (presentation is available on the website).		
Commissioner/Councilor Discussion: J J Wallace Brodeur was concerned about the accessibility of a stormwater waiver. Stated that if it is not simple to understand & implement, it could pose a barrier rather than provide a workable solution. Also asked about the practical difference between 650 & 800 sq. ft. in terms of storm water management. M Tuttle responded that the proposal to decrease the max. size is because, from a stormwater perspective, any sq. ft. of impervious surface is a concern.		

Wednesday, October 30, 2019

-) B Baker pointed out that an engineer might have to be hired to calculate the volume of stormwater runoff and mitigation, adding to the cost of an ADU. Staff responded that the Department of Public Works (DPW) Stormwater Team would help people work through these issues on a case-by-case basis, but that in some cases an engineer may need to be hired.
-) S Bushor reminded the Committee that one of the first steps needs to be creating an ADU Guide which clarifies the process to the public and explains where potential costs may lie.
-) J Wallace Brodeur stressed that this process will require a concerted effort in terms of multiple city players, and that everyone involved needs to be aware of their new roles as well as the importance of this effort. Staff assured that the DPW Stormwater Team sees this as a potential opportunity to learn about how we manage stormwater at a residential scale, and are therefore invested in their role in the process.
-) Y Bradley asked if there should be a floor on the lot size or on a lot that already has existing lot coverage over the allowable lot coverage. M Tuttle noted that staff did not recommend this because the number may still not address the issue for some neighborhoods, and that with setback requirements there will be a built-in floor, but the Committee could consider if it deems necessary.
-) S Bushor was concerned that parking standards seemed inconsistent if someone had an ADU that they wanted to use intermittently back and forth as a STR. A parking space is not required in the proposed ordinance to build an ADU meant for long term housing, but is required for STRs. J Wallace Brodeur commented that they should eliminate as many barriers for ADU construction as possible, and that eliminating the parking requirement is one step towards creating a more favorable policy.
-) C Mason was concerned that someone could receive a lot waiver under the pretense of using the ADU for long term housing, and then convert the unit into a STR. Staff replied that it is possible and that there is not a precedent for tying lot coverage to a specific use, but that the proposal for STR that may limit the potential for this, such as a STR requiring parking.
-) The Committee asked questions about why parking would be required for STR's. M Tuttle indicated that the proposal on ADU's does not address this, and that there would be the ability to talk about parking specific to STR's when that ordinance is before this committee.
-) In reference to the Deed Restriction Provision, S Bushor commented that if a unit is transferred from an owner-occupied unit to an investment property, code needs to be informed so they can enforce the necessary criteria which would have to be met because of the transition of use. S Bushor also noted the inconsistency in the ordinance regarding extra space added to a single-family home under the 4-unrelated ordinance not applying to a discontinued ADU. Staff noted this was a policy decision by Council when ADU laws were initially adopted.
-) Y Bradley expressed that in order to create affordable housing, City needs to stop creating additional expenses (e.g. sprinkler, hiring engineer, etc.) in building that housing. B Baker added that unpredictability is an even larger issue than cost. C Mason affirmed that the Council will follow up on the sprinkler impediment.

IV. Proposed CDO Amendment: ZA-20-04 Minimum Parking

Action: No action		
Motion by: NA	Second by: NA	Vote: NA
Type: Discussion	Presented by: D White	
Discussion/Notes: J D White shared a presentation to address the issue of eliminating the minimum parking requirements in Burlington (presentation is available on the website).		
Commissioner/Councilor Comments:		

Wednesday, October 30, 2019

-) A Roof & J Wallace Brodeur stated that they would like to know more about the Impact Traffic Fee: who pays them, how it is assessed, what the money goes towards, etc. D White replied that the next meeting will include an informational session on Impact Fees.
-) S Bushor mentioned that she would like to see the implications of the existing Impact Fee to determine how it should be changed in order to make a difference in creating public infrastructure. D White explained that this ordinance amendment will not specifically deal with the Impact Fees because it is part of a larger study.

V. Commissioner Items

Action: N/A		
Motion by: H Roen	Second by: E Lee	Vote: NA
Type: Action	Presented by: NA	
Discussion/Notes:		
J E Lee proposed to add the bowling alley amendment - as introduced by Joan Shannon during Public Forum - as an item for the next meeting. D White agreed that the Commission should have a larger conversation about the issue, and the Commission agreed that staff will reach out to Joan to learn about the timeline for this issue.		
J The next Joint Committee meeting is on Tuesday, November 12th		

VI. Communications

Action: No action		
Motion by: N/A	Second by: N/A	Vote: NA
Type: Discussion	Presented by: NA	
Communications Filed:		
J A memo transmitted to the Ordinance Committee in regards to short term housing proposal Feedback		
J A memo transmitted to the Joint Committee members in regards to eliminating the parking minimums		
J Notice regarding South Burlington’s proposed land development regulation amendments		

VII. Adjourn

Adjournment		Time: 8:35
Motion: H Roen	Second: E Lee	Vote: Approved Unanimously



 Andy Montroll, Chair

Signed: November 12, 2019

Respectfully submitted by: S Durmick

A handwritten signature in black ink, appearing to read "S. Durmick", written in a cursive style.

Sidney Durmick, Planning Commission Secretary