

Burlington Planning Commission

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

Burlington Planning Commission

Wednesday, October 28, 2020, 6:45 P.M.

Remote Meeting via Zoom

To Join the Meeting on a Computer

Link: <https://us02web.zoom.us/j/82342881492>

To Join the Meeting on a Phone

Number: +1 312 626 6799 Meeting ID: 823 4288 1492

AGENDA

I. Agenda

II. Public Forum - Time Certain 6:35 p.m.

Public Forum for items not on the agenda.

See pg. 3 of the Agenda Packet for details on how to participate in the public forum for this meeting.

III. Proposed CDO Amendment: Short Term Rentals

Staff will present updates to the proposal and answer Committee questions from the last meeting. Information related to this item is included in the agenda packet on page 3.

Staff Recommendation: Following public forum and any additional changes to the proposal, the Commission is recommended to approve the municipal bylaw amendment report and warn for public hearing.

IV. STR Public Forum

Public Forum for comments on Short Term Rentals.

V. Commissioner Items

- a. The Commission is requested to share comments/questions regarding the 2020-2025 Joint Institutional Parking Management Plan (JIPMP) in advance of the Nov. 10 meeting
- b. Upcoming Meetings
 - i. Tuesday, November 10, 6:30pm on Zoom- CATMA's JIPMP follow-up
 - ii. Tuesday, November 24, 6:30pm on Zoom

VI. Minutes & Communications

- a. The minutes of the October 13 meeting are enclosed in the agenda packet on page 33.
- b. Communications are enclosed in the agenda packet on page 35.

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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Guidance for Participating in a Virtual Planning Commission Meeting

As social distancing measures to preserve public health and safety continue to be required to prevent the spread of COVID-19, or are recommended as a standard practice, the Office of City Planning will be supporting the Planning Commission to conduct their meetings online via Zoom. Here is information about how to join a virtual meeting, and what to expect while participating.

General Guidance for Public Participation

Please remember that in this digital meeting environment, meetings are open to the public and anyone may be watching or listening even if you cannot see them. Meetings will be recorded, and both the recording and chat content of the meeting will be maintained as a public record.

Please ensure your display photo and screen name are professional, such as using your first and last name. Please test your audio and video prior to the start of a meeting, and familiarize yourself with how to join a meeting by your chosen method. And finally, please be patient with us. Technology doesn't always work as planned, and we are all learning how to hold a successful virtual meeting!

How to Join a Virtual Meeting

Zoom allows participation via either computer or telephone. Each agenda for a meeting that will be conducted virtually will include details about how to join via either of these options, including a web address, phone number, Meeting ID, and password.

If you participate via computer, you have the option of seeing Commissioner videos and any presentation materials that may be shared. If you use either a standard phone or cell phone to call in, you will only hear the audio portion of the meeting. If you join via a smartphone, you may have the option to download the Zoom app, which will enable you to see and hear the meeting.

How to Participate in a Virtual Meeting

During meetings, only Planning Commission members and limited staff members will be viewed on video. Members of the public attending a meeting will be muted, except when invited to speak during public forum or a public hearing. Whether members of the public can speak at other times during the meeting is the discretion of the Chair.

If you want to speak during public forum, please take the following steps to assist us in making this process run as smoothly as possible:

- Email staff at mtuttle@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the "Raise Hand" feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting, they will be forwarded to the Commissioners ahead of the meeting.

TO: Burlington Planning Commission & City Council
Ordinance Committee
FROM: Scott Gustin, Principal Planner & Zoning Division Manager
Meagan Tuttle, Comprehensive Planner, Office of City Planning
DATE: October 22, 2020
RE: Proposed CDO Amendment ZA-20-05: Short Term Rentals

Overview & Background

A short term rental (or STR) is typically a dwelling unit that is rented in whole or in part to guests for less than 30 consecutive days for overnight stays. It may be an apartment, a house, or just a bedroom within a housing unit. AirBnB exemplifies short term rentals.

In the last several years, there has been significant and growing demand for STR's internationally, and locally. They benefit owners with a source of income that can help subsidize a cost of living that may otherwise be unaffordable. STR's may also encourage investment in a property. They benefit Burlington's tourism economy and provide guests with a convenient, and often more affordable, place to stay when traveling. They also generate city and state tax revenue via the Rooms & Meals Tax (RMT). Short term rentals, however, do not come without impacts. Some have the effect of removing dwelling units for long-term occupancy, and they may contribute to rising rental rates and purchase prices. Given the high turn-over of guests, short-term rentals may bring about nuisance impacts such as traffic, noise, and trash to neighborhoods.

Burlington has some 10,000+ rental housing units, with a long-time vacancy rate between just 1% and 2%. The city's housing market, including rentals and owner-occupied units, is tight, and prices continue to rise. Short-term rentals have replaced a growing number of dwelling units citywide. According to data provided by HostCompliance, the number of short term rentals within Burlington increased 26% between 2018 and 2019. Growth in 2020 has, thus far, been much slower, at just under 2%. The total number of short term rentals within city limits in July of 2020 is 418. Of the total number of short term rentals, 69% are an entire dwelling unit, whereas 31% are partial dwelling units (i.e. bedrooms). This is a change from 67% and 33% respectively in 2019. In 2020, 58% of the city's STR's are in single-family properties and 42% in multi-family properties.

As the Joint Committee has heard from many of the city's STR hosts, short-term rentals are uniquely flexible and come in a variety of forms—beyond the major distinction between whole unit and partial unit STR's. The same dwelling unit may alternate between long- and short-term rental uses within a relatively short period of time. A dwelling unit may serve as one's primary residence for most of the year, and serve as a short-term rental while the resident is away. A short-term rental may coexist with a number of long-term rentals within a multi-family building. This variability and flexibility needs to be considered within the context of the overarching policy objective: to protect Burlington's limited housing stock, while affording reasonable opportunity to host short-term rentals within the city.

The Joint Committee received information on STRs in the city, as well as significant feedback from hosts at its meetings in January and February 2019. In response to public and Joint Committee comments, the draft regulatory framework was revised in two major ways:

- Allow some degree of off-site hosting for STR's, particularly within multi-unit buildings
- Consider an alternative to Housing Replacement fees, such as a higher RMT or rental registration fee for STRs. In either scenario, the purpose of the fee is to support the City's Housing Trust Fund.

Additional changes to the proposal reflecting comments of the Joint Committee during 2020, including:

- Decreasing the limits on number of STRs within a multi-unit building to limit STRs to less than half of the units, and a related clarification that exceeding these limits results in a "lodging" use.
- Lowering the on-site parking space requirement for bedrooms rented within a host's dwelling unit to 1 space per room, minus 1. This includes not requiring an additional parking space when renting a single room.
- Revision to standards for permitted vs. conditional use for a number of the example scenarios.
- Replacing "hotel/motel" and "hostel" uses with a more general "lodging" use.

Some existing standards in both the *Comprehensive Development Ordinance*, and Chapter 18 of the *City Code of Ordinances* continue to be applicable. Specifically, use of a whole or partial unit as a short-term rental will not require a zoning permit if it meets the existing "temporary use" thresholds in the *CDO*. This exempts any use from requiring a zoning permit if it is operating for less than 10 consecutive days, and up to 30 total days within a year. Conversely, a long-term rental (defined as having a single lease or contract for 30 or more consecutive days) also does not require a zoning permit.

While outside of the *CDO*, this amendment is accompanied by related revisions to Chapter 18 of the *City Code of Ordinances*. These revisions will be made to include short-term rentals in the city's rental registration and inspection process. To be consistent with state statute, which defines a short-term rental as operating for "less than 30 days", the threshold between a short-term and long-term rental within Chapter 18 has been revised. Applicability of Chapter 18 will ensure that minimum life safety standards are adhered to for STRs. These proposed amendments are attached to this memo, following changes to applicable sections of the *CDO*.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The proposed zoning amendments are aimed at minimizing the potential for adverse impacts to the city's housing stock, while balancing some flexibility for hosts to operate short-term rentals. The proposed standards are intended to be clear, reasonable, and enforceable. The proposed amendments are intended to allow the short term rental of bedrooms within a dwelling, and the use of a host's own dwelling occasionally as a short-term rental, with minimal burden to the host. More rigorous standards are applied to whole-unit short term rentals operated by off-site hosts so as to limit their proliferation. In an effort to balance the benefits to hosts with the preservation of our neighborhoods, short-term rentals would generally be allowed wherever residential uses are allowed; however, in most scenarios, hosts must be a resident of the property. Within residential and institutional zones, multi-unit buildings with off-site whole unit STR hosts would be a "conditional use" thereby affording a forum to identify and address potential impacts by the Development Review Board. Large partial-unit STRs would continue to be conditional uses in these zones, as bed and breakfasts currently are.

Proposed Amendments

To achieve the goals identified above, the proposed amendment affects the following sections of the *Burlington Comprehensive Development Ordinance*:

1. Create Section 5.4.14 within Citywide General Regulations for Short Term Rentals

This will expressly enable and directly address Short Term Rental (STR) uses, replacing the current system of treating them as either a Bed & Breakfast or a Hotel/Motel. This section will establish the base standards for both whole unit and partial unit STRs, address where off-site hosting is permitted, and establish limits on the number of STRs in a building. In certain cases, the host is required to reside on the lot where the STR is located; the notable exception is for STR's located within multi-unit buildings.

2. Amend Article 13 Definitions to add STR types, modify lodging definitions

Create definitions for Whole Unit and Partial Unit STR's and STR hosts. Additionally, streamline the definitions of Bed & Breakfast, Hotel/Motel, and Hostel to a more general "Lodging" definition to reduce redundancy and inconsistencies in how various lodging options are permitted.

3. Add Whole Unit and Partial Unit STRs as "special residential uses" to Appendix A- Use Table and in Article 14- Downtown Code

This will establish where various STR types are permitted, not permitted, or permitted by conditional use, as well as set limits on the number of rooms or units that may be rented as an STR. Short-term rentals that are comprised of bedrooms within a host-occupied unit will be permitted in most cases, and will largely be based on existing Bed & Breakfast standards. Short-term rentals that are comprised of an entire dwelling unit will be a permitted use in most cases. However, when operated by an off-site host in Residential districts, conditional use will apply. See attached excerpts of these sections of the CDO.

4. Amend Table 8.1.8-1 Minimum Off-Street Parking Requirements

This will establish the related parking standards for each STR type, and amend standards for traditional lodging establishments. Generally, a requirement of one parking space will apply for Whole Unit short term rentals, and 0.75 spaces per rented bedroom, except for the first bedroom, for Partial Unit STRs. Additionally, STR's of any type may not be required to provide a minimum number of parking spaces if located within the "Multimodal Mixed-Use Parking District" that was recently adopted.

****Begin Proposed Text Amendments****

Excerpt of **ARTICLE 5: CITYWIDE GENERAL REGULATIONS**

PART 4: SPECIAL USE REGULATIONS

Sec. 5.4.1 - 5.4.13 *As written.*

Sec. 5.4.14 Short Term Rental (Partial and Whole Unit)

All short term rentals (STR) shall be comply with the following requirements:

1. Subject to the site and design review standards in Art 6 or Art. 14, and subject to conditional use standards in Art. 3 where applicable; and
2. All dimensional standards for the underlying zoning per the requirements of Art. 4 or Art. 14 shall be applicable; and
3. Short term rentals shall register with the city as rental units under Chapter 18: Housing unless exempted under that Chapter; and.
4. The host's primary residence shall be within the same building or on the same lot (on-site) as the short term rental, except per Table 5.4.14-1 below; and,
5. Whole and Partial Unit STRs may be located within the same building or on the same lot, subject to standards in Table 5.4.14-1.

Table 5.4.14-1 Short Term Rental Types, Limits, and Standards

<u>Building Type</u>	<u>Dwelling Units in Building</u>	<u>STR Limit in Building</u>	<u>Host's Primary Residence</u>	<u>Permitted or Conditional Use</u>
<u>Whole Unit STRs</u>				
<u>Single Detached Dwelling</u>	<u>1</u>	<u>1 Whole Unit</u>	<u>Required</u>	<u>Permitted</u>
<u>Single Detached Dwelling with an ADU (attached or detached), or Duplex</u>	<u>2</u>	<u>1 Whole Unit</u>	<u>Required on same lot as STR</u>	<u>Permitted</u>
<u>Attached Dwellings- Multifamily</u>	<u>3-4</u>	<u>1 Whole Unit</u>	<u>Not Required</u>	<u>Permitted in FD5, FD6, & Neighborhood Mixed Use Districts</u> <u>Permitted in Residential & Institutional Districts when host's primary residence</u> <u>Conditional use in Residential & Institutional Districts when not host's primary residence</u>
	<u>5-6</u>	<u>2 Whole Units</u>	<u>Not Required</u>	
	<u>7+</u>	<u>3 Whole Units</u>	<u>Not Required</u>	
<u>On lots containing 2 or more detached primary structures/buildings, the STR limits are applicable to each building, based on the number of dwelling units in each building.</u>				
<u>Buildings exceeding these limits are a Lodging use, and subject to standards in Appendix A.</u>				
	<u>Zoning District</u>	<u>STR Limit on Property</u>	<u>Host Primary Residence</u>	<u>Permitted or Conditional Use</u>
<u>Partial Unit STRs</u>				
<u>Rooms within a Dwelling Unit</u>	<u>RL and RL-W</u>	<u>1 – 2 Rooms</u> <u>3 Rooms</u>	<u>Required</u>	<u>Permitted</u> <u>Conditional Use</u>
	<u>RM, RM-W, RH, and Institutional</u>	<u>1-2 Rooms</u> <u>3-5 Rooms</u>	<u>Required</u>	<u>Permitted</u> <u>Conditional Use</u>
	<u>FD5, FD6, and Neighborhood Mixed Use Districts</u>	<u>1-5 Rooms</u>	<u>Required</u>	<u>Permitted</u>

Excerpt of ARTICLE 8: PARKING

Sec. 8.1.1 – 8.1.7 *As written.*

Sec. 8.1.8 Minimum Off-Street Parking Requirements

Parking for all uses and structures shall be provided in accordance with Table 8.1.8-1.

- (a) Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the DRB upon recommendation by the administrative officer based upon the capacity of the facility and its associated uses.

When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood District	Shared Use District	Multimodal Mixed-Use District
RESIDENTIAL USES	Per Dwelling Unit except as noted		
No changes			
RESIDENTIAL USES - SPECIAL	Per Dwelling Unit except as noted		
** Rest of Special Residential Uses unchanged**			
Bed and Breakfast (per room, in addition to single family residence)	1	0.75	0
<u>Short Term Rental – Partial Unit (per bedroom minus 1, in addition to dwelling unit)</u>	<u>1</u>	<u>0.75</u>	<u>0</u>
<u>Short Term Rental – Whole Unit, except for single detached dwelling units</u>	<u>1</u>	<u>1</u>	<u>0</u>
NON-RESIDENTIAL USES	Per 1,000 square feet of gross floor area (gfa) except as noted		
** Rest of Non-Residential Uses unchanged**			
Hostel (per two (2) beds)	0.5	0.5	None
Hotel/Motel <u>Lodging</u> (per room)	1	0.75	0

ARTICLE 13: DEFINITIONS

Sec. 13.1.1 Miscellaneous *As written.*

Sec. 13.1.2 Definitions

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

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

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

All other definitions as written.

Bed and Breakfast: ~~An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.~~

Host: A person who operates a whole or partial unit short term rental. The host may be the property owner or tenant.

Hostel: ~~A place where travelers may stay for a limited duration, as recognized by the International Hostel Association.~~

Hotel, Inn or Motel Lodging: ~~An establishment providing for a fee three or more temporary guest rooms and customary lodging services (such as onsite staffing at all hours, lobby space, and room service), and subject to the Vermont rooms and meals tax. Lodging may, or may not, be owner occupied. Lodging does not include historic inns or short term rentals (except when per-building short term rental limits per Table 5.4.14-1 are exceeded).~~

Short Term Rental – Whole Unit: A dwelling unit (as defined in Article 18 of the Burlington City Code of Ordinances) that is rented to guests for overnight stays of less than 30 consecutive days and is subject to the Vermont rooms and meals tax. Short term rental does not include lodging.

Short Term Rental – Partial Unit: A dwelling unit (as defined in Article 18 of the Burlington City Code of Ordinances) wherein only bedrooms are rented to guests for overnight stays of less than 30 consecutive days and is subject to the Vermont rooms and meals tax. A morning meal may be provided onsite such as with a traditional bed and breakfast.

****End Proposed Text Amendments****

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).

Compatibility with Proposed Future Land Use & Density

The proposed amendments are intended to protect existing housing from unlimited conversion to short term rental use. Data shows increasing numbers of short term rentals, largely at the expense of our long term housing stock. This increase puts additional pressure on the city's available housing and degree of affordability. The proposed measures will establish parameters for allowing short term rentals while limiting their adverse impacts on the city's housing supply and affordability.

Impact on Safe & Affordable Housing

The proposed amendments will have no impact on the intensity or density of future land use. They will, however, ensure that future short term rentals are compatible with the residential neighborhoods that so many of them occupy. Short term rentals will be allowed as another one of many uses in the city's mixed use and downtown areas. Conditional use review of STR's operated by offsite hosts in our residential areas will ensure compatibility with existing neighborhoods. Overall limits will prevent wholesale conversion of residential units into short term rentals.

Planned Community Facilities

This amendment has no impact on any 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: Staff, based on referral of City Council	Presentation to & discussion by Joint Committee 1/14, 1/28, 2/11, 2/19, 8/11, 9/23, 10/28	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	Second Read & Public Hearing	Approval & Adoption
				Rejected

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ^l	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	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	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
As written															
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Rest of Residential Special Uses as written.															
Bed and Breakfast^{4,-6}	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	N	N	N
Short Term Rental – Partial Unit (See Sec. 5.4.14)⁴	N	N	N	N	Y/CU	Y/CU	Y/CU	Y/CU	N	Y	Y	Y	Y	N	N
Short Term Rental – Whole Unit – (See Sec. 5.4.14)⁴	N	N	N	N	Y/CU³³	Y/CU³³	Y/CU³³	Y/CU³³	N	Y	Y	Y	Y	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Rest of Non-Residential Uses as written.															
Hostel	N	N	N	N	Y	N	N	CU	N	Y	Y	Y	Y	N	N
Hotel, Motel Lodging	N	N	N	N	CU	N	N	N	(See Sec. 4.4.1 (d) 1)	N	Y	N	Y	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. ~~No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district. See limits on number, and permitted or conditional use, of Partial and Whole Unit STRs per building or lot in Table 5.4.14-1.~~
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycare centers and small preschools in the RCO zones shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. [Reserved].
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
DW-PT	Downtown Waterfront-Public Trust
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
NAC-CR	NAC – Cambrian Rise
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Appendix A-Use Table – All Zoning Districts

- 25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
- 26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
- 27. This use is permitted or conditionally permitted on lots south of Home Avenue only when one or more Industrial or Art Production use(s) exists on the lot, and when the combined gross floor area of all uses with this footnote does not exceed 49% of the Gross floor Area on the lot.
- 28. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.
- 29. Must be fully enclosed within a building.
- 30. New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.
- 31. See special use standards of Sec. 5.4.13, Emergency Shelters.
- 32. Performing Arts Centers in the ELM zone shall be limited to properties with frontage on Pine Street up to 5,000 square feet in size, and to properties with frontage on Industrial Parkway up to 15,000 square feet in size. Performing Arts Centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
- 33. Whole Unit short term rentals operated by off-site hosts are subject to conditional use review; short term rentals operated by on-site hosts are a permitted use.

ⁱ For permitted and conditional uses within the Downtown and Waterfront Form Districts, refer to Article 14.

14.3.4-H- Use Type FD6

Uses not specifically listed in a use table, and that are not similar in nature and impact to a use that is listed, are not permitted.

RESIDENTIAL - GENERAL

Attached Dwellings	P
Single Detached Dwellings (only pre-existing Buildings originally designed and constructed for such purpose)	P

RESIDENTIAL - SPECIAL

Assisted Living	P
Boarding House ¹	P
Community House (Sec. 14.6.6.e)	P
Convalescent /Nursing Home	P
Short Term Rental- Partial Unit (Sec. 5.4.14)	P
Short Term Rental- Whole Unit (Sec. 5.4.14)	P

SHORT-TERM ACCOMMODATIONS

Bed and Breakfast [†]	P
Historic Inn (Sec. 14.6.6.c)	P
Hotel	P
Lodging	P
Shelter	P

RETAIL - GENERAL

ATM	P
Auto/Boat/RV Sales/Rentals ³	P
Convenience Store	P
Fuel Service Station ² (Sec. 14.6.6.d)	CU
General Merchandise/Retail	P

RETAIL - OUTDOOR

Open Air Markets	P
------------------	---

Key

Permitted Use	P
Conditional Use	CU

END NOTES

¹ Must be owner-occupied.

² Automobile sales not permitted as an Accessory Use

³ Exterior storage and display not permitted.

14.3.4-H- Use Type FD6

OFFICE & SERVICE

Animal Grooming	P
Auto/Boat/RV Service ³ (Sec. 14.6.6.d)	P
Beauty Salon/Barber Shop/Spa	P
Car Wash	P
Crisis Counseling Center (Sec. 14.6.6.g)	P
Office – General	P
Office – Medical	P
Office – Technical	P
Dry Cleaning Service	P
Funeral Home	P
Health Club/Studio	P
Laundromat	P
Mental Health Crisis Center	P
Tailor Shop	P

HOSPITALITY/ENTERTAINMENT/RECREATION

Aquarium	P
Art Gallery/Studio	P
Bar, Tavern	P
Billiards, Bowling & Arcade	P
Café	P
Cinema	P
Club, Membership	P
Community Center	P
Conference/Convention Center	P
Museum	P
Performing Arts Center	P
Performing Arts Studio	P
Recreational Facility - Indoor	P
Restaurant	P
Restaurant – Take Out	P

14.3.5-H- Use Types

FD5

Uses not specifically listed, and that are not similar in nature and impact to a use that is listed, are not permitted.

RESIDENTIAL - GENERAL

Attached Dwellings	P
--------------------	---

Single Detached Dwellings (only pre-existing Buildings originally designed and constructed for such purpose)	P
--	---

RESIDENTIAL - SPECIAL

Assisted Living	P
-----------------	---

Boarding House ¹	P
-----------------------------	---

Community House (Sec. 14.6.6.e)	P
---------------------------------	---

Convalescent /Nursing Home	P
----------------------------	---

Group Home	P
------------	---

Short Term Rental- Partial Unit (Sec. 5.4.14)	P
---	---

Short Term Rental- Whole Unit (Sec. 5.4.14)	P
---	---

SHORT-TERM ACCOMMODATIONS

Bed and Breakfast ⁺	P
--------------------------------	---

Historic Inn (Sec. 14.6.6.c)	P
------------------------------	---

Hotel	P
-------	---

Lodging	P
---------	---

Shelter	P
---------	---

RETAIL - GENERAL

ATM	P
-----	---

Automobile and RV Sales and Rental ²	P
---	---

Convenience Store	P
-------------------	---

Fuel Service Station ² (Sec. 14.6.6.d)	CU
---	----

General Merchandise/Retail	P
----------------------------	---

RETAIL - OUTDOOR

Boat Sales/Rentals	P
--------------------	---

Garden Supply Store	P
---------------------	---

Open Air Markets	P
------------------	---

14.3.5-H- Use Types

FD5

OFFICE & SERVICE

Animal Grooming	P
-----------------	---

Beauty Salon/Barber Shop/Spa	P
------------------------------	---

Car Wash	P
----------	---

Crisis Counseling Center (Sec. 14.6.6.g)	P
--	---

Dry Cleaning Service	P
----------------------	---

Funeral Home	P
--------------	---

Health Club/Studio	P
--------------------	---

Laundromat	P
------------	---

Mental Health Crisis Center	P
-----------------------------	---

Office – General	P
------------------	---

Office – Medical	P
------------------	---

Office – Technical	P
--------------------	---

Tailor Shop	P
-------------	---

Vehicle/Boat Repair/Service ²	P
--	---

HOSPITALITY/ENTERTAINMENT/RECREATION

Aquarium	P
----------	---

Art Gallery/Studio	P
--------------------	---

Bar, Tavern	P
-------------	---

Key

Permitted Use	P
---------------	---

Conditional Use	CU
-----------------	----

END NOTES

¹Must be owner-occupied.

² Exterior storage and display not permitted.

ARTICLE I. IN GENERAL

18-1 Short title.

This chapter shall be known and may be cited as the "Minimum Housing Standards Ordinance of the City of Burlington."

(Rev. Ords. 1962, § 921)

18-2 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations, shall have the meanings given herein:

Hotel or motel means an establishment which holds itself out to the public by offering temporary sleeping accommodations for consideration. Hotel or motel does not include short term rental.

Occupant shall mean any person including an owner living and sleeping in a dwelling unit or rooming unit.

Rental unit shall mean any structure, a part of which is rented out and occupied as a residence by another, for compensation, including duplex units, so called. Rental unit shall also include short term rental. The portion of any such unit being occupied as a residence by the owner shall be considered a rental unit.

Roominghouse shall mean any dwelling or that part thereof containing one or more rooming units in which space is let to three (3) or more persons. A roominghouse does not include short term rental.

Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. A rooming unit does not include short term rental.

Short term rental shall mean a dwelling unit that is rented in whole or in part to guests for less than thirty (30) consecutive days for overnight stays. It may be a whole dwelling unit or just bedroom(s) within. For the purposes of this Chapter, short term rental shall not include "temporary uses" as defined in the Comprehensive Development Ordinance (zoning ordinance). See also Article 13: Definitions of the Comprehensive Development Ordinance for related definitions of short term rentals (whole unit and partial unit).

Target housing means any dwelling constructed prior to 1978, except any zero (0) bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of the elderly or persons

with disabilities, unless a child six (6) years of age or younger resides in or is expected to reside in that dwelling. "Target housing" does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient occupancy for less than thirty (30) days ~~or less~~.

All other definitions as written.

18-3 – 18-14 Reserved

As written.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY¹

18-15 Registration required.

(a) The owners of all rental units subject to inspection pursuant to Section 18-16 shall be required to annually file a registration application and fee with the enforcement agency, which shall be due annually on or before April 1. The owners must complete a rental property information form to be provided by the enforcement agency which contains the following information:

- (1) The address of the property.
- (2) The number of dwelling units~~s~~ at that address.
- (3) The number of rental units at that address.
- (4) The maximum number of residents in each rental unit.
- (5) The number of sleeping rooms in each rental unit.
- (6) The number of families living in each rental unit.
- (7) The number of unrelated adults in each rental unit.
- (8) The number of vehicles owned or used by residents of the premises and the number of parking spaces that are dedicated for the rental units at the property.
- (9) The name, address, phone number, date of birth, drivers license and state and military status (active or not) of the property owner, and if the owner is a corporation, the registered corporate agent

and the president of the corporation and his/her name and address, and if the owner is a partnership, the registered partnership agent, and the names and addresses of the general partners.

(10) The name, address and phone number of any local (within Chittenden County) managing agent. All owners who do not live within Chittenden County are required to designate a managing agent located in Chittenden County who is empowered to represent the owner in matters concerning compliance with this chapter.

(11) The name, address and phone number of an emergency contact for this property. All properties must have an emergency contact within Chittenden County.

(12) A designated person within the state for service of process for this property. All owners who do not live within Chittenden County are required to designate a managing agent located in Chittenden County for service of process. The name, address, phone number, date of birth, drivers license number and state and military status (active or not) of the designated agent.

(13) State yes or no to the following question: If the number of unrelated adults listed in paragraph (a)(7) above is greater than four (4), do those adults purport to reside in the rental unit as a "functional family" as that term is defined in the Burlington Zoning Ordinance?

(b) Upon purchase or transfer of property containing a rental unit, the purchasers shall file a new registration application and a fifty dollars (\$50.00) fee. The payment of this fee shall cover one (1) or more rental properties being transferred to a new owner on the same date.

(c) Prior to occupancy of any newly constructed rental unit or conversion of use to a rental unit, the owner shall file an application for registration with the agency and pay the required fee which shall be the pro rata portion of the fee due for that year based on the date of registration.

(d) It shall be a violation of the city minimum housing ordinance for an owner of any rental unit within the city to fail to register a rental unit as required by this section.

(e) Property owners shall have a continuing obligation to notify the enforcement agency of any changes in the information required under subsection (a) during the periods between the required filings of the registration applications.

(14) State yes or no to the following question: Does the rental property contain short term rental(s)? If yes:

(i) How many short term rentals are there in the building?

(ii) How many entire dwelling units are short term rentals?

(iii) How many dwelling units let only bedrooms as short term rentals?

(iv) What is the tax account number?

(Ord. of 4-12-93; Ord. of 4-24-95; Ord. of 9-11-00)

18-16 Inspection required.

The enforcement officer or his/her delegate shall make inspections of rental units within the city, including hotel and motel rooms which are regularly let to the same tenant(s) for a period ~~in excess~~ of thirty (30) days or more, for the purpose of determining whether a violation of this chapter exists.

Excluded from periodic inspection shall be all owner-occupied dwellings containing one (1) or two (2) rooms which are rented out for compensation (including partial unit short term rentals of just one {1} or two {2} bedrooms. See Article 13 of the Comprehensive Development Ordinance for definition of short term rental – partial unit). Also excluded from inspection are university and college dormitories that conduct regular, comprehensive inspection programs and annually certify compliance with the minimum housing standards ordinance to the enforcement agency. Inspections of dwellings and dwelling units other than those that are subject to periodic inspections, or of hospital rooms, hotel and motel rooms or dormitories not subject to periodic inspections as provided for in this section, shall be made only upon complaint or upon request of the owner thereof.

All records, including inspection reports, records of complaints received and investigated, and plan for inspections of rental units, shall be available for public inspection.

(Ord. of 4-12-93; Ord. of 9-11-00)

18-17 – 18-29

As written.

18-29a Termination of rental housing tenancy; rental housing rent increase.

(a) In any case where there is no written rental agreement, no landlord may terminate a tenancy of rental housing without cause unless at least 90 (ninety) days' advance written notice to the tenant(s) has been provided in situations where the tenancy has been less than two (2) years in duration, nor may any such

termination occur without at least one hundred twenty (120) days' advance written notice to the tenant(s) in situations where the tenancy has been for two (2) or more years.

(b) Unless inconsistent with the terms of a written rental agreement, no tenant may terminate a residential tenancy without providing actual notice to the landlord at least two (2) rental periods in advance of the termination date specified in such notice.

(c) No increase in rent for rental housing within the city shall be effectuated without at least 90 (ninety) days' advance written notice to the tenant(s).

(d) The provisions of this subsection do not apply to short term rentals.

(Ord. of 10-29-04)

18-30 Fees.

(a) *Registration fee.* Pursuant to Section [18-15](#), a registration fee shall be charged to the owner of every rental unit in the city that is subject to periodic inspections. This fee shall be in an amount determined by and dedicated solely to the cost of providing rental housing inspection services, clerical, administrative and mediation support services for the housing board of review and landlord/tenant resource services. Any surplus remaining in this fund at the end of a fiscal year shall remain part of the fund and shall be carried forward to the next fiscal year. This fee shall be reviewed annually by the finance board. The fee shall be in the amount of one hundred ten dollars (\$110.00) per unit per year except for owner occupied dwellings with two (2) or less units, in which case the fee shall be eighty dollars (\$80.00) and except for partial-unit short term rentals, in which case the fee shall be fifty dollars (\$50.00).

Remainder of Sec. 18-30 as written.

18-31 – 18-69

As written.

ARTICLE III. MINIMUM STANDARDS¹

DIVISION 1. GENERALLY

18-70 Compliance with article required.

No person shall occupy as owner/occupant or shall let to another for occupancy any dwelling, roominghouse, dwelling unit or rooming unit which does not comply with the minimum standards as provided by this article, as evidenced by a current certificate of compliance or interim certificate of compliance. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of these standards shall be performed and installed in a skilled manner and installed in accordance with the manufacturer's installation instructions in order to allow the performance intended and anticipated by the standards to be achieved and must meet the criteria of the definition of "skilled manner" in Section [18-2](#). See Division 7 for Minimum Standards applicable to short term rentals.

18-71 – 18-120

As written.

DIVISION 7. SHORT TERM RENTAL

18-121 Compliance with article required.

No person shall establish, operate, or host guests in a short term rental which does not comply with the minimum standards as provided by this article, as evidenced by a current certificate of compliance or interim certificate of compliance. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of these standards shall be performed and installed in a skilled manner and installed in accordance with the manufacturer's installation instructions in order to allow the performance intended and anticipated by the standards to be achieved and must meet the criteria of the definition of "skilled manner" in Section 18-2.

18-122 Minimum Fire Safety Standards:

- (a) Smoke and carbon monoxide alarms are provided per the following:
 - i. Photoelectric type smoke alarms are required in the immediate vicinity of sleeping rooms, inside each sleeping room, and on all floor levels including the basement. All newly installed smoke alarms must be hard wired into the buildings electrical system.
 - ii. Smoke alarms in sleeping rooms of buildings constructed prior to 1994, may be of the 10- year photoelectric lithium powered tamper resistant type.
 - iii. Outside each sleeping area in the immediate vicinity of the bedrooms. An additional detector shall be installed in each sleeping room that contains a fuel- burning appliance.
 - iv. Carbon Monoxide alarms installed or replaced in a dwelling after July 1, 2005 must be directly wired to the building electrical service and have a battery backup.
 - v. Existing single family dwellings and duplexes constructed prior to July 1, 2005 may use plug in style alarm with battery backup or battery power or may be hardwired.
- (b) GFI Outlets are provided in the following areas:
 - i. Bathrooms, garages and accessory buildings having a floor located at or below grade level, not intended as a habitable room and limited to storage. Work areas, outdoors, crawl spaces, unfinished portions or areas of the basement not intended as a habitable room. Kitchen, where the receptacles are installed to serve countertop surfaces and sinks and where the receptacles are installed within 6ft from the top inside edge of the bowl of the sink. Boathouses and bathtubs or shower stalls, where receptacles are installed within 6ft of the outside edge of the bathtub or shower stall and laundry areas.
- (c) Every sleeping room is provided with a primary and secondary means of escape. A window meeting rescue and ventilation requirements can satisfy the secondary means of escape.
- (d) Heating systems (fuel and wood) have been inspected at least once every two (2) years by a certified fuel service technician.
- (e) Landings, decks, porches and balconies higher than thirty (30) inches from grade are provided with guards and intermediate rails spaced no more than four (4) inches apart. Stairs must be provided with graspable handrails.

18-123 Minimum General Standards:

- (a) Appliances are operational and in good repair, and hot and cold potable water have been supplied.
- (b) Guest rooms have been serviced and cleaned before each new guest.

- (c) Refuse containers are available and emptied at least once each week or more frequently, if necessary.
- (d) Swimming pools, recreational water facilities, and hot tubs are kept sanitary and in good repair.
- (e) Sewage system and toilets function and are in good repair.
- (f) Toxic cleaning supplies are properly labeled, safely stored and used according to the manufacturer's directions.
- (g) Guest rooms are free of any evidence of insects, rodents, and other pests.

ARTICLE IV. HOUSING DISCRIMINATION

18-200 Purpose.

As written.

18-201 Definitions.

- (a) For the purpose of this article, "adverse housing action" means any of the following:
 - (1) Refusal to rent;
 - (2) Refusal to negotiate a rental;
 - (3) Making a rental unit unavailable;
 - (4) Changing of the terms, conditions, or privileges of a rental including adding or increasing rental charges;
 - (5) Falsely representing that a rental unit is not available for a prospective tenant;
 - (6) Refusal to permit reasonable changes or modifications at other than the landlord's expense to a rental unit in order to render it suitable for occupancy by a handicapped person.
- (b) For the purpose of this article, "rental unit" shall not include:
 - (1) Dormitories or other housing provided by an educational institution including fraternities and sororities;
 - (2) Dwellings which are directly or indirectly assisted or subsidized by a public agency or public monies for the purpose of making housing available for a particular group or classification of persons;
 - (3) Housing provided for pious, charitable, or public purposes;
 - (4) Dwellings where the available space or facilities are inadequate to house a person and all minors under applicable occupancy standards;
 - (5) Dwellings which are owner-occupied duplexes-;
 - (6) Short term rentals.

(c) Notwithstanding the above, no dormitory or other housing provided by an educational institution, including fraternities and sororities, shall take an adverse housing action against any person because of the age, sexual orientation or handicap of the person.

(Ord. of 10-9-84; Ord. of 9-24-90)

18-202 – 18-301

As written.

18-302 Exemptions.

- (a) This article shall not be applicable to single-family homes and duplexes.
- (b) This article shall not be applicable to properties that meet all of the following requirements:
 - (1) land tract with ten (10) or fewer housing units;
 - (2) a deed restriction making at least twenty-five (25) per cent of the housing units affordable to low income tenant households; and
 - (3) located in United States Census Bureau tract that contains less than fifty (50) per cent home ownership.

(c) This article shall not be applicable to short term rentals.

(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07)

18-303 – 18-501

As written.

18-502 Applicability.

- (a) This article shall be applicable to all rental properties subject to the Minimum Housing Code. In mixed commercial/residential buildings this article shall apply only to the residential portion of the building. This article shall not apply to owner-occupied portions of a multi-unit building.
- (b) The following properties shall be exempt from meeting the requirements of this article:
 - (1) Rental properties not rented between November 1 and March 31 of each year.
 - (2) New construction subject to and in compliance with the Energy Conservation Ordinance, B.C.O. sections [8-100](#) to [8-104](#)
 - (3) Hotels, motels, tourist rooming houses, dormitories, hospitals, hospices and nursing homes.
 - (4) Buildings or apartments where heating costs are paid by owners of the rental properties.

(5) Short term rentals.

(Ord. of 3-24-97)

18-503 – 18-511

As written.

Joint Committee Questions

Questions for follow-up from the September 23 meeting:

- **Can existing STRs without permits be granted nonconforming status, or be written into the zoning ordinance to be allowed to continue?**
- **Can zoning permits for STRs be phased out or revoked if there are too many permits issued in the city?**
- **What options does the city have for taxing STRs? Can there be a different tax rate for STRs in low-density residential areas?**
 - *Will receive update from City Attorney at upcoming meeting*

Existing STRs without Zoning Permits

Can the City allow existing STR's that do not have a zoning permit to be granted a nonconforming status, or be written into the bylaws to enable them to continue?

- **Short term rentals that have received a zoning permit under the present standards will be considered legal nonconformities**
- **Nonconforming status is predicated on a use/structure:**
 - being legal and/or permitted at the time it started or was created
 - the standards for what is legal changes after the use/structure was permitted
- **CDO includes a few provisions to allow something that would otherwise not be permitted, but:**
 - Applicability is predicated on the use/structure having legally existed
 - Additionally, this approach is not advisable because:
 - creates precedent for automatically making violations legal, rather than creating a policy that intentionally and explicitly allows them
 - unfair to STR's that have been subject to violation/enforcement action, particularly those discontinued

Revoking Zoning Permits

Can zoning permits be revoked or phased out if too many STRs are created in the city?

- **Zoning permit runs with the land and is valid as long as a use is established, continued**
 - Ordinance requires work/action associated with a permit to commence within one year
 - Additionally, Ordinance establishes timelines for “discontinuance” for nonconformities
- **Provision of state statute that allowed for amortization of zoning permits has been revoked.**
- **For consideration:**
 - add permit condition to Zoning Permit requiring maintenance of Rental Housing Permit in order for zoning permit to be valid

Current draft STR Proposal

Staff has updated corresponding elements to reflect Committee input. Framework includes changes to several city ordinances/policies:

- **Proposed zoning amendments to the *Burlington Comprehensive Development Ordinance***
 - Following discussion, recommend warning for a public hearing
- **Proposed amendments to *Chapter 18 of the Code of Ordinances* regarding “Minimum Housing Standards”**
 - Typically not within the purview of the Planning Commission, but included for discussion
- **Proposed Council Action to impose an additional Rooms & Meals Tax increment**
 - Not included in packet, would be recommended when transmitting proposal to Council

Scenario 1

Flexibility for Host
Most Permissive

“I want to rent my own home as a short-term rental for part(s) of the year, but it will still be my primary residence.” (i.e. a single-family home)

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR No pkg space req. in addition to what is provided for the primary home
Rental Duration Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	Permitted Use in: All zoning districts Limit to less than 180 nights rented as STR in order to maintain host's primary residence
Housing Code Requirements	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18
Taxes & Fees	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Provides flexibility for the host to use own property for STRs
- Most permissive of the scenarios as long host lives on site

Reference in Amendment Language:

- See Table 5.4.14-1
- See exemption from parking for Whole Unit STR in Table 8.1.8-1

Reminder: Scenario 2 from STR Matrix is NOT an STR. It was added to the table to illustrate difference between short-term and long-term rentals in response to frequently asked questions.

Scenario 3

Flexibility for Host More Permissive

“I want to rent bedrooms as short-term rentals within my home.”

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	Partial Unit STR 1 space per room rented, minus one Permitted Use: - Up to 2 rooms in res. & institutional zones - Up to 5 rooms in mixed use zones Conditional Use: - 3 rooms in RL zone - 3 to 5 rooms in other residential & institutional zones
Rental Duration Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights the rooms are rented as STR, as long as continues to be host's primary residence
Housing Code Requirements	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18 • Continue current exemption from registration & inspections for owner-occupied homes with 1 or 2 rented rooms
Taxes & Fees	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Provides flexibility for the host to use own property for STRs
- Requires host to live on site (same as current Bed & Breakfast standards)

Reference in Amendment Language:

- See Table 5.4.14-1
- See parking for Partial Unit STR in Table 8.1.8-1

Scenario 4

Limit Conversion
More Restrictive

“I own a duplex/single-family home with an ADU. I want to live in one unit and use the other as a short-term rental.”

<u>Zoning</u> For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR 1 parking space per unit
<u>Rental Duration</u> Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	Permitted Use in: All zoning districts No limit to number of nights rented as STR Property continues to be host's primary residence
<u>Housing Code Requirements</u>	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18
<u>Taxes & Fees</u>	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Enables STRs in these building types if host lives on site
- Requires parking space for an ADU, that is not otherwise required if used for long-term housing

Reference in Amendment Language:

- See Table 5.4.14-1
- See parking for Whole Unit STR in Table 8.1.8-1

Scenario 5a

Limit Conversion
More Restrictive

“I own and live in, or rent in a multi-unit building, and want to rent some of the units as short-term rentals.”

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR 1 parking space per unit Permitted Use in: All zoning districts Limit to # STR in Bldg: - 1 STR in Bldgs of 3 to 4 units - 2 STR in Bldgs of 5-6 units - 3 STR in Bldgs 7+ units
Rental Duration Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented as STR
Housing Code Requirements	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18
Taxes & Fees	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Lower the limit on number of STRs allowed in each building, so always less than half of total units
- Allow in all districts, based on host residing on site
- Any property which exceeds these thresholds is considered "lodging" (i.e. Scenario 6)

Reference in Amendment Language:

- See Table 5.4.14-1, including note about limit on lots and threshold for lodging
- See parking for Whole Unit STR in Table 8.1.8-1

Scenario 5b

Limit Conversion
More Restrictive

**“I own a multi-unit building, and want to rent some of the units as short-term rentals.
I don’t live on the property”**

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR 1 parking space per unit Permitted Use in: Mixed Use districts Conditional Use in: Residential & Institutional zones Limit to # STR in Bldg: - 1 STR in Bldgs of 3 to 4 units - 2 STR in Bldgs of 5-6 units - 3 STR in Bldgs 7+ units
Rental Duration Host’s “primary residence” means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented as STR
Housing Code Requirements	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18
Taxes & Fees	• STR’s are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Lower the limit on number of STRs allowed in each building, so always less than half of total units
- Permit in mixed use districts, but conditional use in residential districts
- Any property which exceeds these thresholds is considered “lodging” (i.e. Scenario 6)

Reference in Amendment Language:

- See Table 5.4.14-1, including note about limit on lots and threshold for lodging
- See parking for Whole Unit STR in Table 8.1.8-1

Scenario 6

Limit Conversion Most Restrictive

“I own a multi-unit building, and want to rent all the units as short-term rentals.”

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Lodging Permitted Use in: Mixed Use districts, with no limit on # STR units Prohibited Use: Residential districts 1 parking space per room/unit
Rental Duration Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented Not required to be host primary residence
Housing Code Requirements	• Housing Code & Rental Registration not applicable because not considered a "residential" use • Building code req. will depend on # occupants in Bldg.
Taxes & Fees	• Pay Housing Replacement Fee per unit for converted housing units • Would still be req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT)

Approach:

- Should be limited and most restrictive.
- Housing Replacement should apply in scenario.
- Considering this scenario as "lodging" (i.e. hotel/motel) achieves both of the above objectives
- No limit on number of STRs, but not allowed in any residential districts

Applies to situations between Scenario 5 and 6:

- Exceeding the STR limits outlined in any scenario for any property type, for example:
 - I.e. renting a third STR in a building with 6 dwelling units
 - I.e. renting both sides of a duplex as an STR

Burlington Planning Commission

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

Burlington Planning Commission

Tuesday, October 13, 2020, 6:30 P.M.

Remote Meeting via Zoom

Draft Minutes

Members Present	A Montroll, A Friend, E Lee, J Wallace-Brodeur
Staff Present:	D White, M Tuttle, S Gustin
Attendance:	Sandy Thibault (CATMA), Kim Furtado (CATMA), Jonathan Dowd (UVM Transportation Research Center), Lani Ravi (UVM)

I. Agenda

Call to Order	Time: 6:34pm
Agenda	Add "Re-approval of Municipal Bylaw Amendment Report ZA-20-08" after Item VI.

II. Chair's Report

A Montroll	No report.
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III. Director's Report

D White	Working on an update to the Downtown & Waterfront Code
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IV. Public Forum

Name	Comment
No comments	

V. Public Hearing: CDO Amendment ZA-21-01 Daycare & Preschool in RCO Districts

Action: Approve the municipal bylaw amendment report and forward to Council with recommendation.		
Motion: E Lee	Second: J Wallace-Brodeur	Vote: Approved Unanimously
M Tuttle described that this amendment emerged from a request by the Winooski Valley Parks District to expand enrollment for preschool due to COVID-19 related, and future, increase in demand.		
The chair opened and closed the public hearing at 6:39pm with no public comments.		

VI. Public Hearing: CDO Amendment ZA-21-02 Temporary Tents

Action: Approve the municipal bylaw amendment report and forward to Council with recommendation.		
Motion: A Friend	Second: J Wallace-Brodeur	Vote: Approved Unanimously
M Tuttle described that this amendment has emerged in part due to COVID-19 measures implemented to enable civic organizations and businesses to operate in a safer format. It also aligns the zoning ordinance with the requirements for a permit for a non-sleeping tent from the Fire Marshal.		
The chair opened and closed the public hearing at 6:42pm with no public comments.		

VII. Reapprove Municipal Bylaw Amendment Report ZA-20-08

Action: Reapprove municipal bylaw amendment report and forward comments regarding on-street parking from Commission Chair to City Council.		
Motion: J Wallace-Brodeur	Second: E Lee	Vote: Approved Unanimously
M Tuttle described changes made to this amendment by the City Council Ordinance Committee, and that the report was coming back to the Commission for its statutory opportunity to comment and reapprove.		
The Commission requested staff and the Chair to share concerns to the Council about restricting nearby on-street parking from being used by the facility through the residential parking designation.		

VIII. Joint Institutional Parking Management Plan 2020-2025

Action: Approve recommendations to forward to Development Review Board.		
Motion:	Second:	Vote: Approved Unanimously
Sandy Thibault, Kim Furtado, and Jonathan Dowd presented the 2020-2025 JIPMP. Details are online at: https://www.burlingtonvt.gov/CityPlan/PC/Agendas .		
Commission comments:		
- Commission had questions about how to sort out how many students that live within ½ mile of campus report driving, and are calculated in future parking demand. Clarify how campus-affiliated housing is accounted (i.e. Redstone Lofts, 194 St. Paul St, etc) as on- or off-campus. - Commissioners discussed what a parking surplus means, and if that means there is too much parking. It was clarified that these spaces represent 5% of the total parking, which means that the lots are effectively full. It was suggested that the report could clarify which lots are pay-to-park vs. permit-only on the parking utilization map. - Commissioners discussed what is being done to discourage students from driving to or near campus, and what factors influence this. CATMA noted that UVM is reviewing the recommendations from its transportation plan, which include evaluating its permit system, and exploring more incentives for sustainable transportation. It was noted that free parking spaces on city streets could be an incentive to drive more. - Add satellite parking for UVMCM back into the tables, but indicate it separately from on-the-hill parking.		

IX. Commissioner Items

Action: N/A		
Motion: NA	Second: NA	Vote: NA
- Next meeting is Wednesday, Oct 28 at 6:45pm, Joint Meeting with Council Ordinance Cmte		

X. Minutes & Communications

Action: Approved the minutes as amended		
Motion by: J Wallace-Brodeur	Second: E Lee	Vote: Approved Unanimously
Minutes Approved as amended by staff: September 23, 2020		
• Change first bullet under scenario 4 to read "generally agree that these should be permitted" rather than "to allow off-site host".		

XI. Adjourn

Adjournment		Time: 8:01 pm	
Motion: A Friend	Second: E Lee	Vote: Approved Unanimously	

Zoom Chat Transcript from 9/22/2020 Meeting

From Karen Cavoretto to All panelists : can you share the slides with the audience please

From Meagan Tuttle : one moment, yes. You can also view the slides in the agenda packet posted on the website noted above in the chat

From Meagan Tuttle : the slides begin on page 25 of 34 of the agenda packet for tonights meeting posted : <https://www.burlingtonvt.gov/CityPlan/PC/Agendas>

From Lucas Jenson to All panelists : what about buildings with 2 units non owner occupied?

From Meagan Tuttle : we are talking about that as scenario 4- adu/duplex.

From Meagan Tuttle : this is just 3+ units

From Karen Cavoretto to All panelists : may I ask what data are you using to build these scenarios and has there been an analysis of the pros and cons of each that would build up to a recommendable

From Karen Cavoretto to All panelists : whoops recommendation

From Zoraya Hightower to All panelists : Up to 1 SR in buildings with 4 or fewer units. Up to 2 in units of 5 or 5 units. 3 in buildings of 7+

From Zoraya Hightower to All panelists : Up to 1 SR in buildings with 4 or fewer units. Up to 2 in buildings of 5 or 6 units. 3 in buildings of 7+

From Karen Cavoretto to All panelists : yes that is what I am asking- what is the objective

From amy to All panelists : there is a limit to the number of short term rentals that would work In Burlington. it's not endless.

From amy to All panelists : the fear that the city can sustain an endless number of short term rentals isn't real

From amy to All panelists : please do some research, don't just choose a number out of air

From amy to All panelists : you can't set up short term rentals for just a few months. the place need to be furnished!

From Deb Ward Lyons to All panelists : FYI: in reality there are not 410 actively rented STRS in BTW this year; there may be 410 listed to keep the "page" for when hosts decide to go back to STR, but many Airbnb hosts are renting longer term now (2-4 months)

From Karen Cavoretto to All panelists : are you taking into consideration the Charter change that is on the books - the landlord community was stating that if the change goes thru they will either convert to STR or sell

From William Gonyaw to All panelists : The council should keep in mind that setting up a AirBnB includes furnishing the dwelling. That includes furniture, linens, kitchenware, etc. This is not cheap, \$10,000 to \$20,000. The thought that a lot of landlords are going to jump into is misguided.

From amy to All panelists : short term rental guests don't tend to be loud and in other ways problematic.

From Deb Ward Lyons : FYI: in reality there are not 410 actively rented STRS in BTV this year; there may be 410 listed to keep the "page" for when hosts decide to go back to STR, but many hosts are renting longer term now (like Jennifer just referenced)

From Alex S to All panelists : Also a "listing" doesn't necessarily mean a unit. There could be 3 listings for 1 unit if it's a 4 bedroom AND owner occupied

From Julie Marks to All panelists : I feel like the committee is back-tracking on some major progress we made last year. Without input from hosts, many of the committee's suggested scenarios are not practical (i.e. student housing converting to STR in summer). Also, please keep in mind the "no cause" eviction charter change being considered, which would have consequences on the amount of STRs....

From Julie Marks to All panelists : Again, that's not true. There is a lot of cost associated with the conversion.

From Amy Magyar to All panelists : I wish there was a way successfully for landlords to convert a LT to ST rental for a few months and have it be lucrative...but it means that the host has to warehouse the furnishings, etc for 9 months of the year and then "stage" the unit - I am not sure that whatever they can get for a nightly fee if it would even out for the host revenue wise. But it is a great idea Emily! It is a shame that so much of the housing stock stays empty for certain times of the year. Same thing up at Northshore in the winter when the snowbirds head south...sigh.

From David White to All panelists : South Burlington's sign regulations can be found here: [http://www.southburlingtonvt.gov/document_center/planning/Sign%20Ordinance%20\(Adopted%20May%20202010\).PDF](http://www.southburlingtonvt.gov/document_center/planning/Sign%20Ordinance%20(Adopted%20May%20202010).PDF) and as I noted it was not enacted under Chapter 117 (planning & zoning) but instead Chapter 61

From Deb Ward Lyons : Emily - I wonder how many students would want to rent out their bedroom/rentals while gone for the summer? That might be a good question to the Tenants Union.

From Emily Annick Lee to All panelists : tons of students sublet their apartments for the summer now. I see it everywhere in my neighborhood.

From Julie Marks : Speaking as a landlord, most landlords do not allow tenants to conduct STR. Some allow subletting, which many student take advantage of.

From amy to All panelists : short term rentals help small landlords fix up buildings. it helps the housing stock

From Julie Marks : Committee, please keep in mind that property owners and landlords in Burlington are under fire right now and feeling like many of our rights and freedoms are at risk.

From Deb Ward Lyons : Yes, as seen in the Charter Change Committee meeting tonight that started at 5:30

From Julie Marks : Scenario 3 - Why would the city have any authority in regulating a homeowner renting a room in their own home? It is not taking away housing. The city is receiving R&M tax when

they otherwise wouldn't. It is not an apartment, so shouldn't be registered as a rental. Risk to guests and host are completely covered by insurance companies.

From Emily Annick Lee to All panelists : we are not talking about rooms in a home. we are talking about ADUs

From Julie Marks to All panelists : Thank you, Andy! That flexibility and those scenarios apply beyond Scenario 4 too.

From Laurie Kotorman to All panelists : As a landlord, I currently have a duplex, 1 STR, 1 full time rental. The STR is the only way I can afford the taxes and afford to keep the rent for long term rental. My long term tenants have been hosts for 3 years, I am there regularly doing the cleaning with my son on the STR. So if I had a larger unit, I could do this. But because I have a smaller, 2 unit building I'm not allowed to live off site? Feels incredibly unfair.

From Karen Cavoretto to All panelists : 🏠 Amen Duplexes are the backbone of Burlington

From amy to All panelists : Andy- talk to the charter change committee for us! yes to flexibility.

From Julie Marks : We already pay R&M tax, income tax, rental registration, annual inspection fees.... You need more??

From Jamie Sharpe : The terms and conditions as written in the "Just Cause" proposal are in fact making many, many, many landlords exiting Burlington altogether and selling OR converting to STR. I WOULD URGE THE COMMITTEE TO WORK VERY CLOSELY with Charter Change Committee and not approve anything until Just Cause is resolved, Just Cause conditions as is will be a tidal wave and destroy this community with waves of selling. The community will be ravished as we know it

From Julie Marks : How many housing units has the Housing Trust Fund developed in the past 5 years???? WHY is it on property owners who chose to run STRs to provide an adequate supply of housing in Burlington?

From Karen Cavoretto to All panelists : I agree with Jamie - as a Landlord of 30 years of a duplex - if

From Jamie Sharpe : All the speakers and community (non board members) are small mom and pop operations just trying to survive and get by, please understand that we are not major land owners with hundreds or thousands of units. The combination and Just Cause will greatly reduce mom and pop landlords as much bigger operations will be only ones able to afford ownership with the ever decreasing paper thin margins (taxes, insurance, maintenance, water, utilizes, ALL GO UP)

From Karen Cavoretto to All panelists : sorry - typing issues - this proposal should wait until the Charter Change to Just Cause is resolved

From Laurie Kotorman to All panelists : I've been doing STR as a duplex for several years. I converted a single family home to a Duplex. Added a bedroom, so I actually created MORE housing and just chose do STR to make PITI. I would be forced to sell if I can't continue.

From Laurie Kotorman to All panelists : The MAJORITY of the STR's are just struggling to survive. Are you looking at whether or not there is a limit PER landlord perhaps????

From Alex S to All panelists : Is there a number on the amount of STRs that would threaten housing supply?

From rolf to All panelists : would hotels, motels, inns, and traditional b&bs be subject to the additional rooms and meals tax?

From Deb Ward Lyons : Meagan and all: I am a single standing unit owner who lives RIGHT NEXT DOOR 15 ft away - am I a 4A scenario?

From Deb Ward Lyons : Please read my comment above

From amy to All panelists : thank you Andy!

From Laurie Kotorman to All panelists : Thank you, Chip. We appreciate being heard!!!!

From Jamie Sharpe : It would also be helpful to know what “conditional use” means so it is clear who would be approved under this use and not have it be just a pick and choose who gets it

From Alexander Friend : Jamie, conditional use means you have to apply to the Development Review Board to get approval.

From Jamie Sharpe : Scott also mentioned applying permitting “penalty free”. Current we are getting very large \$100s of dollars a day penalty charges going through the permitting process for our STR

From Laurie Kotorman to All panelists : Also, what do we do now while in Limbo with regulations? I've heard some people are being issued fines who are not registered as STR's.

From Jamie Sharpe : Alex but what will the Development Review Board use as a toll to make these decisions and make them in a fair way

From Julie Marks : I've been through DRB Conditional Approval. Still always uncertain whether or not you'll be able to sway them to grant approval

From Jamie Sharpe : tool***

From: City of Burlington, Vermont <noreply@burlingtonvt.gov>
Sent: Tuesday, September 15, 2020 2:18 PM
To: Olivia LaVecchia <olavecchia@burlingtonvt.gov>
Subject: Form submission from: Feedback form

Submitted on Tuesday, September 15, 2020 - 14:17
Submitted by anonymous user: 69.5.125.250
Your email address: philenetao@gmail.com

Did you attend the Housing Summit workshop in June? : No
Share your comments:

We have a neighbor on the corner of South Winooski and Spruce St. who has 3 cars and a van and now is offering short-term rentals through AirBnB adding a 5th car to the mix when they have a guest. They have two parking spots in their driveway, which is often occupied with wood or other materials. They are constantly moving the 4-5 cars around in the street taking up all available parking. Please make sure the short-term rental ordinance includes a required parking spot for each unit rented and enforced.
Thank you

From: Ellis McArdle <emcardl1@gmail.com>
Sent: Sunday, September 27, 2020 10:25 AM
To: Meagan Tuttle <mtuttle@burlingtonvt.gov>; Scott Gustin <SGustin@burlingtonvt.gov>
Cc: David E. White <DEWhite@burlingtonvt.gov>; Theodore Miles <TMiles@burlingtonvt.gov>; Layne Darfler <ldarfler@burlingtonvt.gov>
Subject: Re: STR Code Violation, 77-79 Buell

[WARNING]: External Message

Hi Meagan and Scott,

(Please forward to any and all parties you see fit -please if possible include in notes for the next meeting as well.)

Thank you for your email, we appreciate it. Scott you helped us out greatly by not having us pay an additional \$195 because of confusion back in July. We would like to thank Permitting and Inspections as well, cc'd here.

Thanks to all for your thorough reading of this as well, we really appreciate it and feel it's extremely important to document.

It would be totally shocking to us if a tenant or anyone for that matter complained to the city. As mentioned in our report earlier this year, we feel this location on Buell street is not only vital to get us by financially, but it does nothing to compromise the quality of life in or around the property in the slightest. In fact, it only helps it.

Over the course of ownership since 2018 we have dealt with nothing but loud college students throwing parties left and right being extremely loud every Friday and Saturday, practically. Last year there was a house party directly across the street with over a hundred people and started to flow into our driveway. We have never complained once to the city or the police but this is what we deal with on the regular. STR guests add to the much needed diversity on the street from just having college students continue to erode quality of life for non-college students.

Although we entirely sympathize and support positive homeless problem initiatives, we nonetheless have been dealing with an ever increasing stream of homeless and transients slowly creeping up Buell Street at off hours and have dealt with three very serious matters just over the last four months. Because of these

incidents, we've had to install very expensive security setups including cameras and better lighting. All because of transients and college students fighting. A larger landlord, if we are forced to sell, likely would not have spent a thousand bucks doing this.

If new 'Just Cause' laws and STR becomes more restrictive, small mom and pop landlords will be forced to exit the market in much larger numbers and bigger institutions will come in as they will be the only ones able to operate on paper thin margins and still make profits.

All meetings for STR and Just Cause have been disproportionately attended by small landlords not big ones. The big landlords will always successfully adapt and change because anything is possible with large volume / low margins. The importance of this realization cannot be overstated....The unintended consequence of this is that our 'small town community atmosphere and feel' with mom and pop landlords will be forever lost.

Hypothetical: A tenant files a STR complaint while living in an amazing unit and property BELOW MARKET, screws the owner by forcing them to potentially sell the property because they can't afford to own it any longer without STR, and they have no recourse to not offer a lease renewal via the new Just Cause laws?

We are only trying to illustrate how much small property owners are already suffering and only will suffer more in the future without full understanding from the City. Both sides of the coin need thorough examination.

We take pride in having the best, safest, and nicest property on the street. STR guests only contribute to this positivity for the community and the neighborhood. If we rented that unit full time we would be done for.

If we have to sell because we can't afford the house without STR another owner could very likely not take as much pride or interest in maintaining this property's quality or safety.

In other words, we feel this 'complaint' is simply and plainly absurd in every sense of the term. It has zero weight and justification and only serves to destroy our livelihood.

Thank you to all for taking the time to read this and we look forward to continued positive dialogue with the City.

Kind Regards,
Ellis and Jamie

On Fri, Sep 25, 2020 at 12:51 PM Ellis McArdle <emcardl1@gmail.com> wrote:

----- Forwarded message -----

From: **Meagan Tuttle** <mtuttle@burlingtonvt.gov>

Date: Fri, Sep 25, 2020 at 12:32 PM

Subject: RE: STR Code Violation, 77-79 Buell

To: Ellis McArdle <emcardl1@gmail.com>, David E. White <DEWhite@burlingtonvt.gov>

Hi Ellis,

I will include your message to the Planning Commission in their next packet as a communication, but I wanted to directly follow up here to let you know that this specific issue is outside of the Planning Commission's purview.

As we have been talking about implementing the Committee's work, and the "grace period" we have been discussing the period of time after a zoning change is made, and when the city would begin taking active enforcement against STR's it knows to be in existence without permits. This is not something that the Planning Commission authorizes or requires of the Dept. of Permitting & Inspections, but rather a policy/stance the dept itself would implement in conjunction with the zoning changes.

Over the last year plus that we have been discussing revisions to this policy, Permitting & Inspections has not taken a proactive role in pursuing violations of STRs under the current standards. We have been engaging with hosts in good faith, and have not used these conversations to pursue violations.

However, if the city receives a formal zoning complaint it must respond, investigate, and take any necessary action. I understand that this is what happened your situation. I also think you have connected with Permitting & Inspections this week and are working towards a resolution?

Best,
Meagan

Meagan Tuttle, AICP

Principal Planner, Comprehensive Planning

City of Burlington | Office of City Planning

www.burlingtonvt.gov/plan

PLEASE NOTE: The City Planning Team is working remotely until further notice. However, we remain available via email and phone. Please visit our website at www.burlingtonvt.gov/cityplanning to learn more and for updates. Thanks and stay safe!

From: Ellis McArdle <emcardl1@gmail.com>
Sent: Wednesday, September 23, 2020 9:08 PM
To: Meagan Tuttle <mtuttle@burlingtonvt.gov>; David E. White <DEWhite@burlingtonvt.gov>
Cc: Layne Darfler <ldarfler@burlingtonvt.gov>; Theodore Miles <TMiles@burlingtonvt.gov>; Cara Simoneau <csimoneau@burlingtonvt.gov>
Subject: STR Code Violation, 77-79 Buell

[WARNING]: External Message

Hi All,

Thank you all very much in advance for your thorough reading and understanding of our attached letter.

We are extremely distressed over this situation and we please ask for swift resolution here that will help us be able to afford our house we just purchased in 2018.

Thanks very much,

Ellis and Jamie

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Dear Planning Commission,

Usually we would want to avoid addressing a personal situation only pertaining to us but in this case its paramount in order to further and clearly illustrate a much broader problem at hand here.

Last week we received a code violation via certified mail from Permitting and Inspections saying we were not only in violation but owed \$390 dollars due immediately, followed by potential fines in the hundreds of dollars per day if our application for a permit was not received within 7 days.

It is painfully obvious that these productive meetings and discussions with the Planning Commission reflect a very different tone than what we are hearing from Permitting and Inspections. Just this evening, Scott on the Planning Commission mentioned that consideration for a one year “penalty free” grace period may be allowed for hosts to become permitted. This is most noteworthy and speaks to the disconnect we are facing here between the Planning Commission and Permitting and Inspections.

After polling around fifty STR owners it is quite obvious that none we spoke to have received this same code violation, let alone by certified mail.

We please ask that the tone and understanding that you have is clearly communicated to Permitting and Inspections. It's paramount that communication between all parties is done under the same umbrella of compassion and understanding - especially with this issue that quite literally impacts our livelihood and our ability to afford our property and not sell it.

Having 90 % or so of hosts not having a permit is one thing but to face such strict enforcement while the majority of hosts do not is just plain wrong.

We are asking for flexibility from Permitting and Inspections with our permitting process. Additionally, we are not whatsoever advocating for anyone else to get a violation but simply the opposite in asking you to please work more closely with Permitting and Inspections so everyone can be on the same page here and have a more all encompassing level of understanding and flexibility towards STR hosts simply trying to pay their mortgage and afford to live.

Kind Regards,

Ellis McArdle and Jamie Sharpe

Meagan Tuttle

From: Matt & Leda <tallandsmall@gmail.com>
Sent: Monday, September 21, 2020 11:53 AM
To: Meagan Tuttle
Subject: STR Comments

[WARNING]: External Message

Thanks for the work on these, which I think are a pretty good compromise. The only thing that I would stress is that for STR, not to put a number of days that someone has to occupy the house to be eligible under this rule (Scenario 1). I think you need to differentiate between primary residence for tax and homestead issues vs. the rules under STR.

I would take my case for example. I work overseas and my family returns to our house two times per year (for three months over the summer and one month during x-mas) - I may also come back a few other times during the year. This dynamic makes it almost impossible to get long-term renters - and can make me have to stay in a hotel when I come home - which really stinks! I don't have any control over the number of days that I can stay (though it is always less than 180). I imagine that other snow birds and the like may experience the same thing. Many of us want to be in Vermont and have a home base here (at least for part of the year). Let's be open to the different ways that people make a living and get by!

Cheers,



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 14, 2020

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, November 10, 2020 at 7:00 pm via GoToMeeting. Participation options:

- Online Meeting: <https://www.gotomeet.me/SBCity/pc-2020-11-10>
- Telephone: (872) 240-3212; Access Code: 928-311-013

A copy of the proposed amendments are enclosed, and available on the [City's website](#).

Feedback on the draft amendments is welcome, either 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, November 10, 2020 at 7:00 pm

PLEASE TAKE NOTICE that the Planning Commission will hold a public hearing on Nov. 10 at 7:00 PM to consider amendments to the Land Development Regulations. The amendments affect all parts of the City unless otherwise specified below. The hearing will be held via remotely via GoToMeeting. Participation options:

1. Online Meeting: <https://www.gotomeet.me/SBCity/pc-2020-11-10>
2. Telephone: (872) 240-3212; Access Code: 928-311-013

The purpose of the hearing is to consider the following:

1. LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space
2. LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas
3. LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District
4. LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations

Specific Sections to be Amended:

2.02 Definitions
8.08 Open Space Requirements
8.09 Uses Allowed and Changes of Use
9.05 Transfer of Development Rights
10.06 Urban Design Overlay District
Appendix F. Open Space Types

Copies of the proposed amendments are available for inspection at the Department of Planning & Zoning, City Hall, 2nd Floor, 575 Dorset Street, and on the city website at www.sbv.gov.

Jessica Louisos, Planning Commission Chair
October 22, 2020

LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space

LDR-17-13B Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas

2.02 Definitions

...

Transferrable Development Rights. The development potential of a parcel of land assigned by these regulations ~~and measured in dwelling units per gross acre,~~ which may be severed from a parcel, the sending parcel, and which may be transferred to and used on another parcel, the receiving parcel. To the extent that the development potential of a sending parcel is used on a receiving parcel, rights or interests in the parcel created by a legal instrument in perpetuity, conserving the sending parcel and limiting the possible uses of the sending parcel to agriculture, forestry, natural area and/or outdoor non-motorized recreation shall be granted to the City, a State agency or a Qualified Organization, as defined in 10 V.S.A. section 6301a, as amended from time to time.

10.06 Urban Design Overlay District (UDO)

A. Purpose. It is the purpose of the Urban Design Overlay District to recognize the impact of simple design principles and to reflect a design aesthetic that fosters accessibility and creates civic pride in the City's most traveled areas and gateways, while furthering the stated goals of the City's Comprehensive Plan. The Urban Design Overlay District aids in fulfilling the City's vision ~~for the Southwest quadrant, which is to~~ enable infill and conversion development, encourage pedestrian movement, serve local and regional shopping and employment needs, and make use of existing public transportation. The City intends for the applicable areas to provide safe and inviting access to adjacent neighborhoods.

...

D. Allowance for Increase Lot Coverage via supplemental On-Site Civic Space or Transferable Development Rights. For parcels with land laying within the Urban Design Overlay District, the maximum lot coverage may be increased by up to ten (10) percentage points using one of the two methods described below. Such allowance shall apply only to the subject lot with land within the Urban Design Overlay District and not any adjacent lots and must be approved in conjunction with a site plan or Planned Unit Development for the subject lot.

Example: For a lot in a zoning district where the maximum lot coverage as identified in Appendix C is 70%, the maximum lot coverage for said lot may be increased to 80%.

(1) On-Site Civic Space Option. The applicant shall demonstrate compliance with each of the following standards as part of any proposal to increase lot coverage under this subsection:

- (a) For each additional increment of lot coverage, an area on the site equal to thirty (30) percent of said increment shall be designated on the site plan for of the subject parcel as one or more Snippets/Parklets and/or Pocket/Mini-Parks as enumerated in Appendix F;**
- (b) The selected Civic Space type(s) must comply with all guidelines for as indicated in Appendix F;**

- (c) All elements of the applicable open space type shall be constructed prior to the issuance of a certificate of occupancy;
- (d) Where elements of such open space type are pre-existing, they may be used to qualify under this section; and,
- (e) Impervious areas within an approved Civic Space shall not be considered lot coverage for the purposes of these Regulations.

(2) Transfer of Development Rights Option. The applicant shall demonstrate compliance with each of the following standards as part of any proposal to increase lot coverage under this subsection:

- (a) Provision of Options to acquire all necessary TDRs from a designated Sending Area as part of any application to the Development Review Board or Administrative Officer in accordance with Article 9 of these Regulations.
- (b) Recording of required documentation demonstrating completed transfer(s) of all necessary TDR, in a form acceptable to the City Attorney, shall be required prior to issuance of any zoning permit enabling use of increased lot coverage.
- (c) Transferable Development Rights must be transferred in increments of not less than 2,500 s.f.
- (d) Transferable Development Rights may only be transferred in the minimum quantity required to satisfy the requirements of the site plan or Planned Unit Development application, rounded to the nearest increment. Any remainder of full increments shall be noted in the decision and may be applied in a subsequent application with no additional TDR transfer.

(3) Combined Applications. In no case shall the options listed above be used in combination or in addition to one another.

Transfer of Development Rights

9.05 Transfer of Development Rights; ~~Sending & Receiving Areas and Residential Density~~

The planned maximum residential build-out in the SEQ District has long been limited to approximately 3,800 dwelling units, plus an allowance for affordable housing density bonuses. In order to maintain this limitation on the overall development of the SEQ District and to encourage both well-planned residential development in clusters and the preservation or protection of open space, natural resources, scenic views and agricultural uses, the Transfer of Development Rights is hereby authorized within the SEQ District. To allow for the redistribution of development to areas priority development areas outside the SEQ District, the Transfer of Development Rights to land within the Urban Design Overlay District is also authorized as enumerated in this Section.

A. Sending and Receiving Areas. The Transfer of Development Rights (TDRs) is comprised of two parts: sending areas and receiving areas. Sending areas are those from which TDRs can be exported, and receiving areas are those to which TDRs can be imported.

- (1) **Sending Areas.** Lands within the following areas designated as Sending Areas:
 - (a) Lands within the SEQ-NRP and SEQ-NRT sub-districts
- (2) **Receiving Areas.** Lands within the following areas designated as Receiving Areas:
 - (a) Lands within the SEQ-NR, SEQ-NRT, SEQ-NRN, SEQ-VR and SEQ-VC sub-districts;

(b) Parcels with land located within the Urban Design Overlay District

- ~~(1) Lands within the SEQ-NR, SEQ-NRN, SEQ-VR and SEQ-VC sub-districts are designated as receiving areas.~~
- ~~(2) Lands within the SEQ-NRP sub-district are designated as sending areas.~~
- ~~(3) Lands within the SEQ-NRT sub-district area designated both as sending areas and receiving areas.~~

B. Assigned Density: For the purposes of the Transfer of Development Rights, all land in the SEQ District is provided an Assigned Density based on the maximum residential build-out of the SEQ District. The maximum assigned density of a parcel shall be one point two (1.2) dwelling units and/or lots per gross acre.

- (1) **SEQ-VC:** Lots in the SEQ-VC sub-district that were in existence as of the effective date of this Article and that are two acres or less in size shall be allowed an assigned residential density of four (4) dwelling units to the acre.

C. Allowable Density for Development that does not Include a Transfer of Development Rights: If a PUD does not include Transferrable Development Rights, the number of dwelling units that may be developed, or the number of single family house lots that may be created, in the PUD shall not exceed an average density and a maximum number of units per structure as follows:

- (1) In the SEQ-NRP sub-district, the provisions of Section 9.12 shall apply.
- (2) In the SEQ-NRT, SEQ-NR, SEQ-NRN and SEQ-VR sub-districts: One point two (1.2) dwelling units to the acre and four (4) dwelling units per structure.
- (3) In the SEQ-VC Subdistrict:
- (a) For lots that were in existence as of the effective date of this Article and that are two acres or less in size: four (4) dwelling units per acre
 - (b) For all other lots: One point two (1.2) dwelling units to the acre and four (4) dwelling units per structure.

D. Allowable ~~Residential~~ Density for Development that Includes a Transfer of Development Rights

- (1) If a PUD in the Southeast Quadrant Zoning District uses Transferrable Development Rights, the number of dwelling units that may be located on, or the number of single-family house lots that may be created within, a contiguous development parcel subject to a single PUD or Master Plan approval shall be increased to a maximum average density as follows:
- (a) In the SEQ-NRT and SEQ-NR sub-districts: Four (4) dwelling units to the acre and four (4) dwelling units per structure.
 - (b) In the SEQ-NRN sub-district: Four and two-thirds (4.67) dwelling units to the acre and four (4) dwelling units per structure.
 - (c) In the SEQ-VR and SEQ-VC sub-districts: Eight (8) dwelling units to the acre and six (6) dwelling units per structure.

Such average densities may be achieved only as part of a Planned Unit Development application.

Where a structure has been approved as part of a Master Plan prior to January 9, 2012 with a greater number of dwelling units than those permitted in these Regulations, such approved number of units in a structure shall remain in effect.

(2) If a site plan or PUD outside the Southeast Quadrant Zoning District uses Transferrable Development Rights, the amount of development density that may be located on a development parcel subject to a site plan or PUD approval shall be increased as follows:

(a) In the Urban Design Overlay District, lot coverage indicated in Section 10.06 of these Regulations.

E. Development Rights Necessary to Obtain Density Increase

To obtain the increased density allowable in a receiving area, transferrable development rights must be acquired from 0.83 acres of land in a sending area for each unit of increased development within a additional dwelling unit approved for development on the rReceiving Area parcel beyond the maximum average density that would be allowable on that parcel if the PUD-application did not use transferrable development rights. A unit of increased development is defined as:

- (1) A residential dwelling unit (excluding accessory apartments), or;
- (2) Lot coverage of 10,000 s.f.

Appendix F: SEE LDR AMENDMENT #LDR-19-06

LDR-19-06 Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District

8.08 Open Space Requirements

...

C. Qualifying Civic/Open Space. Qualifying Civic/Open Space is defined per the palette of options included in Appendix F Table 8-2, and specifically *excludes* areas also intended for motor vehicular use, such as parking areas, driveways, travel lanes, etc.

Table 8-2. Qualifying Open Space

Transect Zone	Allowable Open Space (see Appendix F for standards)
T5	Pocket/Mini Park
	Plaza/Square
	Outdoor café/restaurant seating (not within the public right-of-way)
	Sun Terrace (as restricted in Appendix F)
	Courtyard
	Pedestrian Pass
	Indoor Park / Atrium
T4	
	All Open Space listed as allowable in T5 and;
	Playgrounds
	Green (residential and campus style development only)
	Community gardens
	Rain Gardens (as restricted in Appendix F)
	Wooded area (as restricted in Appendix F)
T3/T3+	Enhanced or recreational Wetlands/Stormwater Treatment Area (as restricted in Appendix F)
	Pocket/Mini Park
	Courtyard
	Green – residential with more than 7 units only
	Private yard space (respecting common space requirement indicated in Table 8-1)
	Playground
	Community gardens
	Wooded area (as restricted in Appendix F)

...

E. Open Space Location

(1) Locating Open Space Off-Site

(a) Qualifying open space may be located off-site, or on a parcel other than the one where the subject use is located, in areas designated in Table 8-1. Designated off-site qualifying open space must be located within City Center FBC District boundaries and must meet the standards articulated herein. Designated off-site open space must qualify under the palette of options listed in [Table 8-2 Appendix F](#).

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G. Landscaping Requirements

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(2) Within the City Center FBC District, the minimum landscaping budget may be applied to non-bulb perennial vegetation, or other amenities, as detailed in Table 8-23 and Appendix F, as part of a cohesive landscaping plan for the site that provides adequate planting of trees and shrubs appropriate to the site.

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Table 8-23. Landscaping Options

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8.09 Uses Allowed and Changes of Use.

A. General Provisions. Within the Transect Zones, all uses shall be allowed except as specified in Table 8-34, Table of Uses, these Land Development Regulations, other applicable City ordinances and regulations and by state statute or applicable state regulation. In Table 8-34 below (Transect Zone Table of Uses), where a use is not listed as prohibited within a specific Transect Zone, it is allowed in that Transect Zone pursuant to these Land Development Regulations.

B. Nonconforming structures. Table 8-34, Transect Zone Table of Uses, indicates uses that are prohibited in each Transect Zone for structures that are not in full compliance with the applicable Building Envelope Standards. See also Section 8.11 for nonconformities.

...

Table 8-34. Transect Zone Table of Uses

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APPENDIX F: CIVIC/OPEN SPACE TYPES

SEE ATTACHED TABLE

	Plaza/Square	Green	Pocket/Mini Park	Playground	Outdoor Café/ Restaurant Seating	Sun Terrace	Indoor Park/Atrium	Courtyard	Wooded Area	Community Shared Garden Space
Applicability	All FBC Districts	T3, T3+, T4	All FBC Districts, Parcels with land in Urban Design Overlay District	All FBC Districts	All FBC Districts (must be associated with a restaurant)	Buildings having 3 or more stories in T4 and T5	T4, T5	All FBC Districts	Onsite in FBC T3 and T3+ unless counting as off-site open space for T4 and T5 and meeting all of the requirements and limitations of 8.08E.	All FBC districts.
Description & Service Intent	Primarily hard-surface space. <u>Intended to serve public, allowing people to congregate, sit, walk, or access adjacent businesses. Should be context-sensitive.</u>	Informal and centralized public, civic space or common/shared private space for residential use or campus-style development.	Small open area. <u>May be tucked adjacent to or between buildings, or adjacent to roadway, on a separate lot or portion of a lot. Intended to primarily serve public or residents within 1/4 mile radius.</u>	Programmed space and/or structure that serves the <u>active</u> recreational needs of children in the immediate vicinity.	An open-air seating area provided by a restaurant located on the subject or adjoining property, where restaurant patrons can eat or drink	Accessible and open area on upper story with seating and gathering amenities.	Interior open space where at least one wall facing the street consists entirely of glass.	Common Open Space area on a portion of a lot.	Naturally occurring area with predominance of canopy trees with enhancement and public access.	Land set aside and maintained for production of food to be used primarily for participating gardeners.
Size	Minimum 5,000 sq.ft.	Residential: 0.25-2 acres; Campus-style Development: 0.5-3 acres.	2,000- 40 <u>25,000</u> sq. ft.	Total p Play area shall be a minimum of <u>1,500 2400</u> square feet. <u>Play space should include a buffer area around any play structures.</u>	Minimum 100 sq. ft.	500-3,000 sq.ft; total area shall not count as more than 50% of the minimum required qualifying open space.	Minimum area 1,500 sq.ft. Minimum ceiling height 20'. Area to be counted as qualifying open space shall not exceed twice the area of the glass wall projected onto the floor plane.	5,000-20,000 sq. ft.	2,500 sq. ft. minimum; Shall include the land of the improvement (such as enhanced path, viewing platform, etc) and no more than 50 feet to either side; total area shall not count as more than 50% of the minimum required qualifying open space.	Minimum 400 square feet. Encouraged to serve at least 20% of units in multifamily developments.
Location & Access	Outdoors and within Public Realm. High Visibility from public rights of way. Accessible from a public street at grade or 3' above or below street level connected to street with wide, shallow stairs. May include space for a farmer's market	For residential: Centralized; Accessible to all tenants/residents via pedestrian walkway or direct frontage (cottage court development). For campus-style development: Centralized; Accessible from a public right-of-way via direct walkway; Access from several locations encouraged.	Fronts on and is accessed from a street right-of-way. Pedestrian accessible.	Accessible from Public Right-of-Way or adjacent to private sidewalk. Should be centrally located and visually accessible to the greatest extent practicable.	Highly visible, directly adjacent to public right of way. See additional public realm standards below.	Second floor or above. Encourage location in places which have spectacular views. Accessible directly from the sidewalk or public corridors. For T5 Non-Residential, must provide adequate signage about location and accessibility in hallways and elevators.	Building interior adjacent to sidewalk or public open space. Direct access from street level. Provide several entrances to make the space available and inviting to the general public.	Physically defined by surrounding buildings on three sides (outer) or four sides (inner)	Must be accessible, at minimum, by residents, tenants, or customers of site. Must be onsite. Offsite wooded areas shall not be considered qualifying open space even where the LDR permit open space to be located off-site.	May not be located in any class wetland or wetland buffer. Shall have proper drainage.
Seating*, Tables, Etc.	Minimum one seating space for each 500 sq.ft. of plaza area. Minimum 10 seats. <u>Seating is encouraged to be of a variety of types and socially oriented.</u>	Provide formal and informally arranged seating, on sculptured lawn. Moveable chairs desirable. Three seats per quarter acre, rounded up.	One seat for each 750 sq.ft. of park size. Must include amenities which differentiate the space from basic lawn area. Examples include benches, bike racks, trash receptacles, gazebos, playgrounds <u>fixed play equipment</u> , or public picnic tables.	Must provide benches or formal seating areas at one space for each 500 square feet, rounding up, as well as at least 200 square feet of level, grassed, informal seating.	Seating material shall be of moderate to high quality in order for café space to be considered qualifying open space.	One seating space for every 50 sq.ft. of terrace area.	Provide one seat for every 100 sq.ft. of floor area, one table for every 400 sq.ft. of floor area. At least one half of seating to consist of movable chairs.	One seating space for each 500 sq.ft. of courtyard area, with a minimum of <u>10 3</u> .	Light enhancement expected. Must include improvements, including cleared paths and benches.	None required.
Landscaping, Design-	Landscape is secondary to architectural elements. Use trees to strengthen spatial definition. Shall include attractive paving material or pattern to create unique space. Encouraged use of lush, dense plant material. Shall incorporate art, sculpture and/or water feature.	Provide lush landscape setting with predominantly lawn surfaces and planting such as: trees, shrubs, ground cover, flowers. Canopy trees should provide substantial shade.	Turf and landscape plantings. to <u>Should</u> promote shade over <u>at least 25% a portion of the</u> area.	Appropriate ground material- rubber or woodchips. Plantings for articulation of space <u>to complement active play ingredients encouraged</u> . Flat paved or concrete area for wheeled toys encouraged. Paved areas including space for basketball or other sport courts are encouraged and may be counted towards minimum required area of qualifying open space. Shade shall be provided in consultation with the Recreation Director	For optional separated seating areas, use planting boxes of interesting patterns of plants, open fences of less than 3 feet in height, or decorative and moveable bollards with decorative chain connectors.	Terrace may take one of the following forms: complex architectural setting which may include art works; flower garden; space with trees and other planting. Planted roofs are permitted provided area is also a functional seating space.	Provide attractive paving material to create interesting patterns. Use rich plant material. Incorporate sculpture and/or water feature.	If paved, area shall be amended throughout with substantial planted areas or large planters of trees and lush greenery. If grassed, area should be articulated at perimeter with lush greenery.	Majority of area must be covered with canopy trees. Light enhancement expected. Must include cleared paths, benches, and/or other amenities.	Must have adequate planting soils, tested for pH balance, drainage, nutrients, etc. (proof provided prior to Certificate of Occupancy). Where they are inadequate, soils shall be amended for more suitable farming. Shall have water service directly to gardens. <u>Raised planters or other semi-permanent infrastructure encouraged.</u>
Commercial Services, Food	20% of space may be used for restaurant/cafe seating, taking up no more than 20% of the sitting facilities provided.	20% of space may be used for restaurant seating taking up no more than 20% of the sitting facilities provided.	Not permitted	Permitted but n Not counted towards open space requirement.	May serve as seating area for adjacent restaurant/food service, or be space provided for those bringing their own meals.	Dependent on Transect, may possibly be used up to 100% for commercial food services. See Table 8-1.	30% of area may be used for restaurant seating taking up no more than 30% of the seating and tables provided.	Not permitted	Not permitted.	Not permitted.
Sunlight and Wind	Sunlight to most of the occupied area from mid-morning to mid-afternoon.	Sunlight to most of the occupied area from mid-morning to mid-afternoon. Shelter from wind.	No requirements	Sunlight to most of the occupied area from mid-morning to mid-afternoon. Mix of sun and shade.	Sunlight encouraged to most of the occupied area at lunchtime.	No requirements	No requirements except as noted for street façade to be wall of glass. Encouraged to be south-facing.	Sunlight to sitting areas for most of day.	No requirements	Full sunlight.
Other				Shall include minimum components: 3 low-child-sized swings; 1 toddler-sized swing; 2 slides; one or more play houses. Shall include added amenities specifically intended for play by toddlers and young children, to the satisfaction of the Administrative Officer in consultation with the Director of Recreation and Parks. Creativity in design strongly encouraged.						<u>Plan shall be established and submitted to ensure continual use and maintenance of the gardens, whether by residents, association, property owner or property manager.</u>
Notes:										
Seating dimensions:	*Required dimensions for one seating space or one seat are as follows:	Height: 12" to 36"; ideally 17"; must allow user to bend knees and have feet below knees	Depth: 14" one-sided; 30-36" double-sided	Width: 30" of linear seating are counted as one seat						
Materials	All products installed in qualifying open spaces shall be of high quality materials intended to be used for commercial application.									

	Rain Garden	<u>Snippet/ Parklet</u>	Pedestrian Pass	Streetfront Open Space	Enhanced or Recreational Wetlands/Stormwater Treatment Area	<u>Private Yard Space</u>
<u>Applicability</u>	All FBC districts	All FBC districts; Parcels with land within the Urban Design Overlay District	T4, T5	All FBC districts	Onsite in FBC T3 and T3+ unless counting as off-site open space for T4 and T5 and meeting all of the requirements and limitations of 8.08E.	T-3 and T3+
<u>Description & Service Intent</u>	A shallow depression planted with native plants that captures rainwater runoff from impervious urban areas.	Small sitting area clearly intended to provide welcoming respite between or adjacent to buildings. May serve general public, employees, residents, or customers.	Narrow pedestrian right of ways that cut through blocks in residential and/or commercial areas.	Liner open space area to secondary streets, as permitted per the Regulations.	An existing wetland buffer or new stormwater treatment area which offers public amenities that exceed those minimally necessary for water resource management.	Private yard space associated with residential units
<u>Size</u>	Maximum size of 3,500 sf; shall not count as more than 50% of minimum required qualifying open space.	600-4,000 sq. ft	8' minimum width; 24' maximum width.	50' minimum depth from closest public street line; or if private, 50' minimum depth from edge of pavement or sidewalk as applicable.	Shall include the land of the improvement (such as enhanced path, viewing platform, etc) and 50 feet to either side; total area shall not count as more than 50% of minimum required qualifying open space.	As directed by minimum requirements.
<u>Location & Access</u>	The garden should be positioned near a runoff source like a downspout, driveway or sump pump to capture rainwater runoff and stop the water from reaching the sewer system.	Must be directly adjacent to public right of way and sidewalk or operable building entry. Applicants are encouraged to consider lighting and safety in design.	No vehicular traffic. Must connect two public streets. Storefronts and restaurants are highly encouraged to access the pedestrian pass.	Must be immediately adjacent to qualifying secondary street. See Chapter 8 for additional regulations. Must be on each side of roadway, unless a complying building is located on the opposite side.	Must be visible to public or tenants and users of building. Direct pedestrian access from adjacent public street type.	Directly adjacent to and accessible to at least one entry of dwelling unit it is associated with.
<u>Seating*, Tables, Etc.</u>	The space must serve as a visual amenity which can be enjoyed through paths or seating. Adjacent seating, proportionate with the size of the garden and number of users, intended to enhance the garden is are required and can be counted as part of the required open space.	Seating must be the main focus of the space. Seating must be present year-round and composed of high quality materials. Fixed seating is required unless the applicant demonstrates that moveable seating will meet the stated goals of the type.	One seating space for each 150 sq.ft.	Seating is encouraged, but there shall be no minimum requirement.	If functional for sitting and viewing, seating can be ledges, benches, and/or stairs.	No requirements.
<u>Landscaping, Design-</u>	Deep rooted native plants and grasses.	Landscaping shall also be a primary component of the space. Because the space is inherently small, it shall be carefully landscaped in a higher proportion than larger spaces. Landscaping should not interfere with seating, but instead complement it. Spaces should appear warm and inviting and permanent rather than temporary.	If paved, area shall provide trees or large potted plants at no more than 530 foot intervals. If grassed, area shall be accented with intermittent trees or public art.	Slight, gentle, and undulating berms from 1-3 feet in height are encouraged to block views of parking areas. Ever-green landscaping is required. Include canopy trees whose branches are above the average visual line of sight, located throughout the space, with no more than 40 feet between any two such trees or between a tree and the street or parking area. Landscaping should aim to distract from parking beyond, but should not create dense walls of shrubbery or trees. Artwork is also highly encouraged.	LID techniques; no fencing permitted.	No requirements. Landscaping, lawns, or planned seating/dining areas (patios and decks) are encouraged.
<u>Commercial Services, Food</u>	Not permitted.	Permitted	40% of area may be used for restaurant seating taking up no more than 30% of the seating and tables provided.	Not permitted.	Not permitted.	Not permitted.
<u>Sunlight and Wind</u>	Appropriate to the plant species selection.	No requirements	Sunlight to most of the occupied area at lunchtime. Shelter from wind.	No requirements.	Appropriate to the plant species selection.	Exterior to building.
<u>Other</u>	See LID language for additional standards.	Bicycle parking may be permitted within these areas; however, the space dedicated to bicycle parking shall not count towards meeting the open space requirements.		Separate travelled way from parking areas; shall create pedestrian environment.	Must be located on applicant-owned property.	
<u>Notes:</u>						
<u>Seating dimensions:</u>						
<u>Materials</u>						

LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations

Appendix E:

Submittal requirement:
Completed application form; one (1) full-sized, one (1) reduced [11" x 17"], and one (1) digital copy of plans; and a list of the owners or record of abutting property owners

DRAFT



**South Burlington Planning Commission
Proposed Land Development Regulations
Amendment & Adoption Report
Planning Commission Public Hearing November 10, 2020**

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, November 10, 2020 at 7:00 pm, via GoToMeeting electronic platform, to consider the following amendments to the South Burlington Land Development Regulations:

- A. *LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space*
- B. *LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas*
- C. *LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District*
- D. *LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations*

Accessing the Hearing:

This will be a fully electronic meeting, consistent with recently passed legislation. There will be no physical site at which to attend the meetings. The City is presently using GoToMeeting as our service. Members of the public are welcome to call in by telephone, join by interactive internet service (with video conferencing and screen sharing capability), or both.

Interactive Online Meeting (audio & video): <https://www.gotomeet.me/SBCity/pc-2020-11-10>

Telephone (audio only): (872) 240-3212; Access Code: 928-311-013

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."*

A. LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space

Brief explanation of the proposed bylaw

The amendment would allow for an increase in allowable lot coverage of up to ten (10) percentage points for any parcel with land in the Urban Design Overlay District with the provision of an on-site Civic Space equal to thirty (30) percent of the area being added as impervious surface.

- (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 amendment would allow for additional lot coverage in areas designated in the Comprehensive Plan as priority areas for development and re-development. The amendment would have limited effect on the availability of safe and affordable housing other than to provide additional development flexibility, generally, within the Urban Design Overlay District; if any applicant did make of the provision for affordable housing, a minimum amount of civic space would be installed to serve users of the property

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

The amendment is consistent with the Comprehensive Plan's objectives to support development re-development along the Shelburne and Williston Road corridors and to do so in a manner than supports pedestrian-scale design and amenities.

- (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.

B. LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas

Brief explanation of the proposed bylaw

The amendment would allow for an increase in allowable lot coverage of up to ten (10) percentage points for any parcel with land in the Urban Design Overlay District with the use of Transferable Development Rights. The amendment would designate properties with land in the Urban Design Overlay District as a Receiving Area and allow existing Sending Areas to direct TDRs to these locations.

- (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 amendment would allow for additional lot coverage in areas designated in the Comprehensive Plan as priority areas for development and re-development. The amendment would have limited effect on the availability of safe and affordable housing other than to provide additional development flexibility, generally, within the Urban Design Overlay District.

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

The amendment is consistent with the Comprehensive Plan's objectives to support development re-development along the Shelburne and Williston Road corridors. Furthermore, it is consistent with the objective to support conservation of land within areas designed as "very low intensity, principally conservation" in the Comprehensive Plan by expanding the market for use of Transferable Development Rights

- (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.

C. LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District

The proposal would amend Chapter 8 (City Center Form Based Code District) and the related Appendix F to provide for additional qualifying open space types, amend some minor details and clarify expectations of approved types, and provide for greater organization of the text related to applicability.

- (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 amendments would not have a direct impact on the availability of safe and affordable housing. The amendments do continue to further several goals and policies within the 2016 Comprehensive Plan, including objective 33 related to the provision of varied recreational areas and facilities and objective 35 relating to a targeted open space to population service standard.

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

The amendments are not anticipated to impact proposed future land uses and densities as outlined in the Comprehensive Plan.

- (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. The requirements for qualifying open spaces are largely intended to be private spaces and not community-funded, though there could be the potential for large projects with related large open spaces to provide for identified or planned public parks or related community facilities.

D. LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations

Brief explanation of the proposed bylaw

The proposed amendment would eliminate requirements for submittal of paper copies of applications to the Development Review Board and Administrative Officer. Digital versions of all documents will continue to be required. They can be provided via digital means to any interested person and can also be sent to a local printer for reduced or full-sized copies upon request. When the City's offices are open to the public, applications can also be made available for review in person on a public computer

- (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 amendments will reduce paper waste, furthering the City's objectives for energy efficiency.
- (2) *Is compatible with the proposed future land uses and densities of the municipal plan.*
The amendment has no impact on proposed future land uses or densities.
- (3) *Carries out, as applicable, any specific proposals for any planned community facilities."*
The amendment does not impact specific proposals for any planned community facilities.

Burlington Joint Committee of the Planning Commission, City Council
Ordinance Committee and BTV Office of City Planning Staff
149 Church Street
Burlington, VT 05401
802-865-7144

To: Andy Montroll, Bruce Baker, Yves Bradley, Alexander Friend, Emily Lee,
Harris Roen, Jennifer Wallace-Brodeur, Chip Mason, Jack Hanson,
Zoraya Hightower, David White, Meagan Tuttle, Scott Gustin

From: Deb Ward Lyons
248 North Willard Street
Burlington, VT 05401
C 240-375-5106

Re. STR Proposal
October 28, 2020

Dear Committee Members and City Planning Staff,

First, thank you all for the many months and hours that you have taken to consider the issue of Short Term Rentals (STRs) in Burlington. It has been a massive amount of work as you've configured and pondered various scenarios and listened to STR hosts as they've explained their personal situations and needs. I'm a firm believer that STRs can successfully exist within the ideals of protecting Burlington's housing stock.

Today I'd like to respond to the current matrix that is under consideration. The STR scenarios listed allow for renting rooms within one's home; renting one's own home, an ADU or duplex when a resident of the property; renting within a multi-unit building as either a resident in one of the units or not; and renting all units of a multi-unity building as STRs (most restrictive option).

I request that the committee consider an additional scenario, one in which a landlord owns and rents a single, stand-alone STR while not a resident of the property (off-site host), perhaps as "Scenario 4A". I don't believe regulating this option would be any more challenging than current regulations for long term rentals, or any of the options on the matrix. Please discuss this idea when you meet tonight.

My situation is unique in that I own two buildings side by side, which I purchased at separate times. All the other properties on my block have a house and back yard. When these twin houses were built, they were placed on one lot next to each other with a driveway between them. They were owned as one property for many decades by the original builder then the George Munson family. I purchased my home first (from Mr. Munson) 40 years ago, then 13 years later bought the companion house (again from George). I pay taxes on them as one lot (homestead and non-homestead); they are surveyed and listed as one lot in city records; and my Parcel ID Land Use lists them as “R2 – 2 family.” But they are not a duplex, as there is a 16 ft. driveway separating the walls of the two homes. Sixteen feet... Andre the Giant and Shaquille O’Neal could lay across the driveway head to toe. So could a 1964 VW Beetle with a cooler next to it. See attached photos (of driveway).

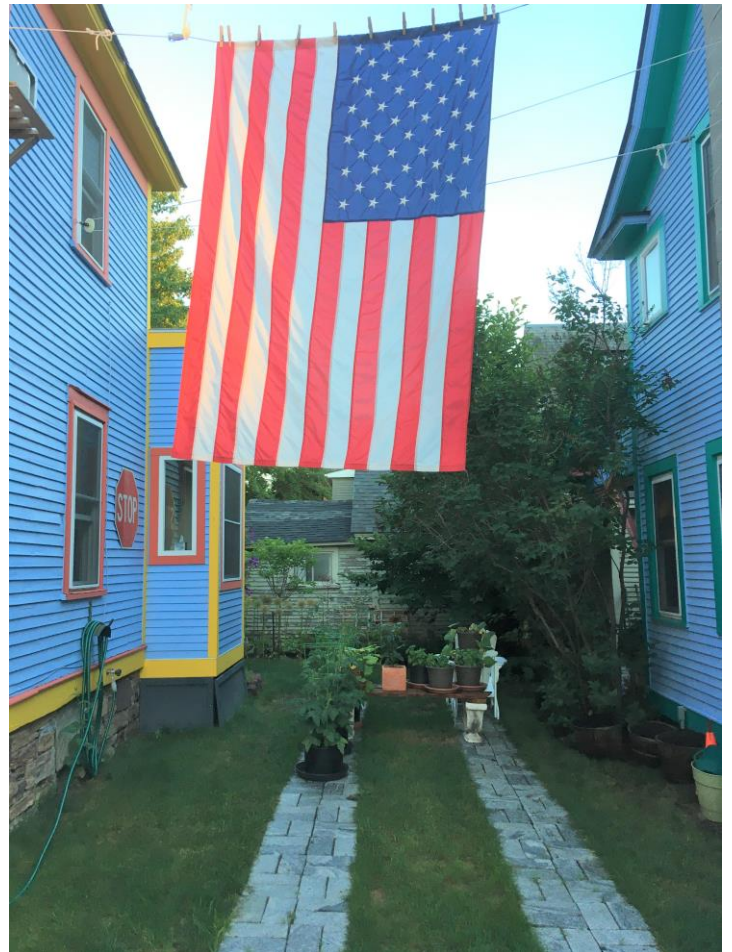
I would like to seek a path forward with my situation that will allow me to rent short-term if I so desire. In my house next door I’ve had family live there, long-term renters, short-term renters and monthly renters. When renting year-long, (from 2004-2015) 80% of my tenants were respectful of the property and neighborhood; 20% were not, and they cost me many thousands of dollars in repairs and lost rent. I avoided legal proceedings because taking the loss was better than 12-18 months of court dates and continued headaches. Because of this, I experimented with short-term interspersed with monthly renting. The balance of quiet neighbors/renters who care for the property with respect, and my attentive regular (weekly and monthly) upkeep/cleaning of the building has benefited the neighborhood greatly.

I also believe STRs have a much smaller impact on Long Term Housing than some believe. This is in large part, now, due to the pandemic; Airbnb hosts have pivoted in a major way since March 2020. The HostCompliance numbers quoted in the 10/22/20 Overview and Background document do *not* reflect the actual number of STRs in Burlington: “*The total number of short term rentals within city limits in July of 2020 is 418.*” As has been pointed out before, many of these 418 are either no longer actively renting on Airbnb, or there are multiple listings for one location. A quick search just now for Thanksgiving 2020 and the weekend following, for four adults in a stand-alone house, displayed TEN options in Burlington.

Still, if the pandemic were to “go away” I believe you would find landlords who operate a STR to be in the *minuscule minority* of overall rentals. We are mom &

pop hosts who rely on this income to stay in Burlington, not bigger operations with many multiple (or hundreds) of units. Please find a way to create a 4A scenario that allows for a landlady like myself to rent a single, stand-alone house as a STR, as an off-site host.

Thank you for this consideration,

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

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-____-PET

Petition of New Cingular Wireless PCS, LLC d/b/a AT&T pursuant to 30 V.S.A. § 248a requesting a Certificate of Public Good for the attachment of telecommunications equipment on a replacement light pole in Burlington, Vermont	
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PETITION:
LIMITED SIZE AND SCOPE (REPLACEMENT LIGHT POLE)

By this Petition, New Cingular Wireless PCS, LLC d/b/a AT&T (“AT&T”), represents as follows:

1. AT&T holds a Certificate of Public Good to provide wireless services within Vermont pursuant to multiple cellular, PCS Broadband, Band 14 and other licenses granted by the Federal Communications Commission.
1. Pursuant to its licenses, AT&T is undertaking to improve and enhance its wireless network in the state to provide capabilities for use of devices employing AT&T’s Long Term Evolution (“LTE”) technologies. LTE is a high-performance air interface for cellular mobile communications, designed to increase the capacity and speed of telephone service and internet access through use of wireless devices.
2. Consistent with §I(a) of the ePUC Procedures for Electronic Filing (“ePUC Pr.”),¹ AT&T proposes to install a new telecommunication facility (the “Facility”) located in a public right of way near 6 Pine Street, Burlington, Vermont (the “Property” or “Site”), consisting of a replacement light pole (the “Pole”) supporting wireless telecommunications equipment on and within the Pole (the “Project”).
3. As demonstrated by the prefiled testimony and exhibits included with this Petition, the Project does not raise a significant issue with respect to the substantive criteria established by 30 V.S.A. § 248a, thereby allowing the PUC to certify the Project in accordance with the procedures established by subsection (f) of 30 V.S.A. 248a.
4. This proceeding is subject to the general authority and limitations of the federal Spectrum Act, 47 U.S.C. §1455(a)(1) and 47 C.F.R. Subpart U (State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Service Facilities) (eff. 01/14/2019), as it involves the PUC’s review of a “small wireless facility” under 47 C.F.R. § 1.6002(l) (*i.e.*, a facility mounted on a structure of less than 50

¹ Although styled as a “petition” to conform with ePUC Pr., Petitioner requests that this filing be treated by the Public Utility Commission clerk as an application pursuant to 30 V.S.A. §248a(a) and (j).

feet, with antennas of less than 3 cu. ft. and structure-mounted operating equipment of less than 28 cu. ft.). Consequently, in addition to the 60-day review timeframe set forth in 30 V.S.A. §248a(f), the application is also subject to a 90-day review timeframe pursuant to 47 C.F.R. § 1.6003(c)(1)(iii), which includes any pre-application period asserted by the siting authority as set forth in 47 C.F.R. § 1.6003(e). AT&T hereby preserves its rights under the Spectrum Act and the corresponding FCC regulations, in addition to Section 248a(f), to the extent necessary to proceed with the Project.

5. The Facility complies with each applicable criterion established by 30 V.S.A. § 248a and, therefore, will promote the general good of Vermont.

In support of its Petition, AT&T hereby profiles the following testimony and exhibits:

Witnesses	Subject Matter
David Ford	Overview and description of the wireless telecommunications facility, including an explanation of the coverage objective, the allocation of ownership of project components, and a description of compliance with the Section 248a criteria.

Dated at Burlington, Vermont this 22nd day of October, 2020

DOWNS RACHLIN MARTIN PLLC
Attorneys for Petitioner

By: 
Elizabeth Kohler, Esq.
199 Main Street, P.O. Box 190
Burlington, VT 05402-0190
Telephone: (802) 863-2375
Email: EKohler@drm.com

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-____-PET

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PETITION:
LIMITED SIZE AND SCOPE (REPLACEMENT LIGHT POLE)

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2. Pursuant to its licenses, AT&T is undertaking to improve and enhance its wireless network in the state to provide capabilities for use of devices employing AT&T’s Long Term Evolution (“LTE”) technologies. LTE is a high-performance air interface for cellular mobile communications, designed to increase the capacity and speed of telephone service and internet access through use of wireless devices. While presently AT&T deploys 4G LTE service, the company has set a goal of deploying its 5G network nationwide in 2020.
3. Consistent with §I(a) of the ePUC Procedures for Electronic Filing (“ePUC Pr.”),¹ AT&T proposes to install a new telecommunication facility (the “Facility”) located on the Church Street Marketplace near 120 Church Street, Burlington, Vermont (the “Property” or “Site”), consisting of a replacement light pole (the “Pole”) supporting wireless telecommunications equipment on and within the Pole (the “Project”).
4. As demonstrated by the prefiled testimony and exhibits included with this Petition, the Project does not raise a significant issue with respect to the substantive criteria established by 30 V.S.A. § 248a, thereby allowing the PUC to certify the Project in accordance with the procedures established by subsection (f) of 30 V.S.A. 248a.
5. This proceeding is subject to the general authority and limitations of the federal Spectrum Act, 47 U.S.C. §1455(a)(1) and 47 C.F.R. Subpart U (State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless

¹ Although styled as a “petition” to conform with ePUC Pr., Petitioner requests that this filing be treated by the Public Utility Commission clerk as an application pursuant to 30 V.S.A. §248a(a) and (j).

Service Facilities) (eff. 01/14/2019), as it involves the PUC's review of a "small wireless facility" under 47 C.F.R. § 1.6002(l) (*i.e.*, a facility mounted on a structure of less than 50 feet, with antennas of less than 3 cu. ft. and structure-mounted operating equipment of less than 28 cu. ft.). Consequently, in addition to the 60-day review timeframe set forth in 30 V.S.A. §248a(f), the application is also subject to a 90-day review timeframe pursuant to 47 C.F.R. § 1.6003(c)(1)(iii), which includes any pre-application period asserted by the siting authority as set forth in 47 C.F.R. § 1.6003(e). AT&T hereby preserves its rights under the Spectrum Act and the corresponding FCC regulations, in addition to Section 248a(f), to the extent necessary to proceed with the Project.

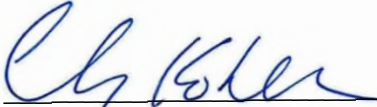
6. The Facility complies with each applicable criterion established by 30 V.S.A. § 248a and, therefore, will promote the general good of Vermont.

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Witnesses	Subject Matter
David Ford	Overview and description of the wireless telecommunications facility, including an explanation of the coverage objective, the allocation of ownership of project components, and a description of compliance with the Section 248a criteria.

Dated at Burlington, Vermont this 21st day of October, 2020

DOWNS RACHLIN MARTIN PLLC
Attorneys for Petitioner

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Telephone: (802) 863-2375
Email: EKohler@drm.com

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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-____-PET

Petition of New Cingular Wireless PCS, LLC d/b/a AT&T pursuant to 30 V.S.A. § 248a requesting a Certificate of Public Good for the attachment of telecommunications equipment on a replacement light pole in Burlington, Vermont	
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3. Consistent with §I(a) of the ePUC Procedures for Electronic Filing (“ePUC Pr.”),¹ AT&T proposes to install a new telecommunication facility (the “Facility”) located in a public right of way near 55 Cherry Street, Burlington, Vermont (the “Property” or “Site”), consisting of a replacement light pole (the “Pole”) supporting wireless telecommunications equipment on and within the Pole (the “Project”).
4. As demonstrated by the prefiled testimony and exhibits included with this Petition, the Project does not raise a significant issue with respect to the substantive criteria established by 30 V.S.A. § 248a, thereby allowing the PUC to certify the Project in accordance with the procedures established by subsection (f) of 30 V.S.A. 248a.
5. This proceeding is subject to the general authority and limitations of the federal Spectrum Act, 47 U.S.C. §1455(a)(1) and 47 C.F.R. Subpart U (State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless

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Dated at Burlington, Vermont this 21st day of October, 2020

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Attorneys for Petitioner

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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

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3. Consistent with §I(a) of the ePUC Procedures for Electronic Filing (“ePUC Pr.”), ¹ AT&T proposes to install a new telecommunication facility (the “Facility”) located in a public right of way near 131 Battery Street, Burlington, Vermont (the “Property” or “Site”), consisting of a replacement light pole (the “Pole”) supporting wireless telecommunications equipment on and within the Pole (the “Project”).
4. As demonstrated by the prefiled testimony and exhibits included with this Petition, the Project does not raise a significant issue with respect to the substantive criteria established by 30 V.S.A. § 248a, thereby allowing the PUC to certify the Project in accordance with the procedures established by subsection (f) of 30 V.S.A. 248a.
5. This proceeding is subject to the general authority and limitations of the federal Spectrum Act, 47 U.S.C. §1455(a)(1) and 47 C.F.R. Subpart U (State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless

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Dated at Burlington, Vermont this 22nd day of October, 2020

DOWNS RACHLIN MARTIN PLLC
Attorneys for Petitioner

By: 
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199 Main Street, P.O. Box 190
Burlington, VT 05402-0190
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Email: EKohler@drm.com



BTV HOUSING SUMMIT

www.burlingtonvt.gov/btv-housing-policy

Policy Reform Goals

Based on the 2019 Housing Summit work, short-term rental regulations should:

- Expressly enable short term rentals, recognizing tiers for different types of short-term rentals
- Balance the benefits to hosts and guests with impacts to city's long-term housing stock
- Limit the number of housing units that are converted to short-term uses, while preserving flexibility for hosts to use their homes to earn income
- Ensure that conversion of housing units to short-term rentals contribute to the City's efforts to preserve and expand permanently affordable housing



Current draft STR Proposal

Staff has updated corresponding elements to reflect Committee input. Framework includes changes to several city ordinances/policies:

- **Proposed zoning amendments to the *Burlington Comprehensive Development Ordinance***
 - Following discussion, recommend warning for a public hearing
- **Proposed amendments to *Chapter 18 of the Code of Ordinances* regarding “Minimum Housing Standards”**
 - Typically not within the purview of the Planning Commission, but included for discussion
- **Proposed Council Action to impose an additional Rooms & Meals Tax increment**
 - Not included in packet, would be recommended when transmitting proposal to Council

Joint Committee Discussion Topics

Relative to the scenarios presented, the Joint Committee will continue discussing:

- **Does the proposed framework meet the proposed goals for this scenario?**

Per Oct 2019 Council Resolution, a framework that “creates tiers for different types of [STRs] and disincentivizes the most impactful uses...by:

- *limiting the number of housing units that can be converted for [STR] purposes and*
- *ensuring that those conversions are contributing to the city’s efforts to preserve and expand permanently affordable housing, while also*
- *preserving some flexibility and ability to earn greater income for Burlington homeowners, and*
- *recognizing that some supply of [STRs] benefits the Burlington economy...”*

- **Are there some scenarios wherein an off-site host would be acceptable?**

- **Is Housing Replacement vs. an alternative fee/tax more appropriate to achieve goals?**

- **Any other comments/input on the proposed framework for these scenarios?**

Basic Elements of STR Amendment

Proposed Amendment makes the distinction between STR types and other forms of lodging, and between STR Hosts and situations that require owner-occupancy.

Unique to STR



Partial Unit STR
Room(s) in a
house, apartment

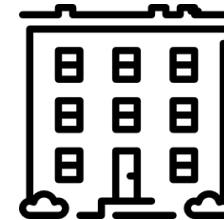


Whole Unit STR
Entire house or
apartment(s)



STR Host
Owner or tenant
operating an STR

Other Definitions



Lodging
Replaces hotel,
motel, inn, hostel



Owner-Occupied
Owner lives in
dwelling unit

Scenario 1

Flexibility for Host Most Permissive

“I want to rent my own home as a short-term rental for part(s) of the year, but it will still be my primary residence.” (i.e. a single-family home)

<u>Zoning</u> For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR No pkg space req. in addition to what is provided for the primary home Permitted Use in: All zoning districts
<u>Rental Duration</u> Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	Limit to less than 180 nights rented as STR in order to maintain host's primary residence
<u>Housing Code Requirements</u>	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18
<u>Taxes & Fees</u>	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Provides flexibility for the host to use own property for STRs
- Most permissive of the scenarios as long host lives on site

Reference in Amendment Language:

- See Table 5.4.14-1
- See exemption from parking for Whole Unit STR in Table 8.1.8-1

Reminder: Scenario 2 from STR Matrix is NOT an STR. It was added to the table to illustrate difference between short-term and long-term rentals in response to frequently asked questions.

Scenario 3

Flexibility for Host More Permissive

“I want to rent bedrooms as short-term rentals within my home.”

<u>Zoning</u> For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Partial Unit STR 1 space per room rented, minus one
	Permitted Use: - Up to 2 rooms in res. & institutional zones - Up to 5 rooms in mixed use zones Conditional Use: - 3 rooms in RL zone - 3 to 5 rooms in other residential & institutional zones
<u>Rental Duration</u> Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights the rooms are rented as STR, as long as continues to be host's primary residence
<u>Housing Code Requirements</u>	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18 • Continue current exemption from registration & inspections for owner-occupied homes with 1 or 2 rented rooms
<u>Taxes & Fees</u>	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Provides flexibility for the host to use own property for STRs
- Requires host to live on site (same as current Bed & Breakfast standards)

Reference in Amendment Language:

- See Table 5.4.14-1
- See parking for Partial Unit STR in Table 8.1.8-1

Scenario 4

Limit Conversion
More Restrictive

“I own a duplex/single-family home with an ADU. I want to live in one unit and use the other as a short-term rental.”

<u>Zoning</u> For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR 1 parking space per unit Permitted Use in: All zoning districts
<u>Rental Duration</u> Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented as STR Property continues to be host's primary residence
<u>Housing Code Requirements</u>	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18
<u>Taxes & Fees</u>	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund

Approach:

- Enables STRs in these building types if host lives on site
- Requires parking space for an ADU, that is not otherwise required if used for long-term housing

Reference in Amendment Language:

- See Table 5.4.14-1
- See parking for Whole Unit STR in Table 8.1.8-1

Scenario 5a

Limit Conversion
More Restrictive

“I own and live in, or rent in a multi-unit building, and want to rent some of the units as short-term rentals.”

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	<table><tr><td> Whole Unit STR</td><td>1 parking space per unit</td></tr><tr><td>Permitted Use in: All zoning districts</td><td>Limit to # STR in Bldg: - 1 STR in Bldgs of 3 to 4 units - 2 STR in Bldgs of 5-6 units - 3 STR in Bldgs 7+ units </td></tr></table>	 Whole Unit STR	1 parking space per unit	Permitted Use in: All zoning districts	Limit to # STR in Bldg: - 1 STR in Bldgs of 3 to 4 units - 2 STR in Bldgs of 5-6 units - 3 STR in Bldgs 7+ units
 Whole Unit STR	1 parking space per unit				
Permitted Use in: All zoning districts	Limit to # STR in Bldg: - 1 STR in Bldgs of 3 to 4 units - 2 STR in Bldgs of 5-6 units - 3 STR in Bldgs 7+ units				
Rental Duration Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented as STR				
Housing Code Requirements	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18				
Taxes & Fees	• STR's are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund				

Approach:

- Lower the limit on number of STRs allowed in each building, so always less than half of total units
- Allow in all districts, based on host residing on site
- Any property which exceeds these thresholds is considered "lodging" (i.e. Scenario 6)

Reference in Amendment Language:

- See Table 5.4.14-1, including note about limit on lots and threshold for lodging
- See parking for Whole Unit STR in Table 8.1.8-1

Scenario 5b

Limit Conversion
More Restrictive

**“I own a multi-unit building, and want to rent some of the units as short-term rentals.
I don’t live on the property”**

Zoning For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Whole Unit STR	1 parking space per unit
	Permitted Use in: Mixed Use districts Conditional Use in: Residential & Institutional zones	Limit to # STR in Bldg: - 1 STR in Bldgs of 3 to 4 units - 2 STR in Bldgs of 5-6 units - 3 STR in Bldgs 7+ units
Rental Duration Host’s “primary residence” means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented as STR	
Housing Code Requirements	• Register annually as a rental • Meet basic Life Safety Standards in Ch. 18	
Taxes & Fees	• STR’s are currently req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT) regardless of type. • Potential for additional increment RMT to support Housing Trust Fund	

Approach:

- Lower the limit on number of STRs allowed in each building, so always less than half of total units
- Permit in mixed use districts, but conditional use in residential districts
- Any property which exceeds these thresholds is considered “lodging” (i.e. Scenario 6)

Reference in Amendment Language:

- See Table 5.4.14-1, including note about limit on lots and threshold for lodging
- See parking for Whole Unit STR in Table 8.1.8-1

Scenario 6

Limit Conversion Most Restrictive

“I own a multi-unit building, and want to rent all the units as short-term rentals.”

<u>Zoning</u> For all scenarios: • Zoning Permit is required if STR rented 10+ consecutive days, or 30+ total days/year • Parking space(s) not required if located in Multimodal Mixed-Use District	 Lodging 1 parking space per room/unit Permitted Use in: Mixed Use districts, with no limit on # STR units Prohibited Use: Residential districts
<u>Rental Duration</u> Host's "primary residence" means that the host lives in/at the unit/property for at least half the year	No limit to number of nights rented Not required to be host primary residence
<u>Housing Code Requirements</u>	• Housing Code & Rental Registration not applicable because not considered a "residential" use • Building code req. will depend on # occupants in Bldg.
<u>Taxes & Fees</u>	• Pay Housing Replacement Fee per unit for converted housing units • Would still be req. by state & city to register as a biz and pay Rooms & Meals Taxes (RMT)

Approach:

- Should be limited and most restrictive.
- Housing Replacement should apply in scenario.
- Considering this scenario as "lodging" (i.e. hotel/motel) achieves both of the above objectives
- No limit on number of STRs, but not allowed in any residential districts

Applies to situations between Scenario 5 and 6:

- Exceeding the STR limits outlined in any scenario for any property type, for example:
 - I.e. renting a third STR in a building with 6 dwelling units
 - I.e. renting both sides of a duplex as an STR

Joint Committee Questions

Questions for follow-up from the September 23 meeting:

- **Can existing STRs without permits be granted nonconforming status, or be written into the zoning ordinance to be allowed to continue?**
- **Can zoning permits for STRs be phased out or revoked if there are too many permits issued in the city?**
- **What options does the city have for taxing STRs? Can there be a different tax rate for STRs in low-density residential areas?**
 - *Will receive update from City Attorney at upcoming meeting*

Existing STRs without Zoning Permits

Can the City allow existing STR's that do not have a zoning permit to be granted a nonconforming status, or be written into the bylaws to enable them to continue?

- **Nonconforming status is predicated on a use/structure:**
 - being legal and/or permitted at the time it started or was created
 - the standards for what is legal changes after the use/structure was permitted
- **CDO includes a few provisions to allow something that would otherwise not be permitted, but:**
 - Applicability is predicated on the use/structure having legally existed
 - Additionally, this approach is not advisable because:
 - creates precedent for automatically making violations legal, rather than creating a policy that intentionally and explicitly allows them
 - unfair to STR's that have been subject to violation/enforcement action, particularly those discontinued

Implementing Zoning Requirements

In considering a transition to this regulatory framework:

- **Short term rentals that have received a zoning permit under the present standards will be considered legal nonconformities**
- **One Year Grace Period before active zoning enforcement of STR's begins**
 - Operators who apply for permits will not be subject to zoning violations, apply penalty-free
 - Other Applicable Fees apply (i.e. Rental Registration, etc)
- **Create a User Guide/FAQ's**
 - Similar to content of these presentations (zoning, codes, taxation, assessment, etc)
- **Establish contract with HostCompliance for monitoring/enforcement**

Revoking Zoning Permits

Can zoning permits be revoked or phased out if too many STRs are created in the city?

- **Provision of state statute that allowed for amortization of zoning permits has been revoked.**
- **Zoning permit runs with the land and is valid as long as a use is established, continued**
 - Ordinance requires work/action associated with a permit to commence within one year
 - Additionally, Ordinance establishes timelines for “discontinuance” for nonconformities
- **For consideration:**
 - add permit condition to Zoning Permit requiring maintenance of Rental Housing Permit in order for zoning permit to be valid

Burlington Planning Commission

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

Burlington Planning Commission

Wednesday, October 28, 2020, 6:45 P.M.

Remote Meeting via Zoom

Minutes

Members Present	A Montroll, A Friend, B Baker, H Roen, E Lee, Y Bradley, J Wallace-Brodeur, C Mason, J Hanson, Z Hightower
Staff Present:	D White, M Tuttle, S Gustin
Attendance:	Cheri Campbell, Joe Speidel, William Gonyaw, Emily Nottonson, Amy Magyar, Eric Hanley, Lucas Jensen, Abbot Stark, Julia Marks, Deb Ward Lyons, Erhard Mahnke, Sharon Bushor, Amanda, Paul, Loranger, Dan Goossen, Rolf Danielson

I. Agenda

Call to Order	Time: 6:49pm
Agenda	No Changes

II. Public Forum

Name	Comment
No Comments	

III. Proposed CDO Amendment: Short Term Rentals

Action: N/A		
Motion: N/A	Second: N/A	Vote: Approved Unanimously
Staff updated the committee on changes to the proposal and answered questions from prior meetings. Slides are posted at: https://www.burlingtonvt.gov/CityPlan/PC/Agendas		
Committee Discussion: - Could discontinuance for non-conforming STRS be 6-months instead of a year? - Some committee members suggested that the ordinance should start by being more restrictive to see how many units will be impacted in the city. - A commissioner asked what policy interest is served by allowing non-owner-occupied properties to host STRs, and noted that each unit that is an STR used to be long-term housing. - A commissioner expressed concern that renters are not part of the discussion, and taking more housing off-line is a risk at a time when city has prioritized importance of addressing housing. - Committee wanted more information about whether a nightly fee would require a charter change and what rate would be permitted, more information about the housing replacement fee is calculated, and difference between a one-time fee vs. an ongoing tax. - A commissioner questioned whether to allow Scenario 6 (all units in a building are STRs) and whether the goal is to raise money or deter conversion to STRs. - Committee requested more information about the number of new housing units in Burlington (historic and expected), vacancy rate trend, and changes to tax rates over time.		

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.

IV. STR Public Forum

Name	Comment
D Ward Lyons	Request to allow off-site host for STRs, and to consider single-units when host lives nearby as a duplex or ADU. STR has been easier to manage and better impact on neighborhood than previous long-term situations. Want to confirm City RMT rate. STR is not the solution to the City's housing crisis.
A Magyar	Additional RMT is applicable to all STRs, vs. replacement fee wouldn't apply to many of the scenarios. Consider offering conditional use for whole unit non-owner occupied STRs, maybe with a limit to very small number in the City.
E Hanley	Would like to clarify how the proposal applies to a two-unit property in regards to whether the host lives on the property or not.
A Stark	Have lived in Burlington since 2000, always had a housing crisis. STR does not have that much of an impact, compared to other factors. STR has been necessary to make property ownership and maintenance possible, and maintain below-market rents for tenants. Request to allow 2 STRs in a 4 unit property to promote mixed-income neighborhoods. There are STR benefits to hosts and community.
E Mahnke	Concerned about scenarios 5a/5b/6 impact on affordable housing, and taking rental housing off the long-term market. Housing crisis is a protracted problem, for Burlington and state, and this will make it worse. Concerned about tenants as hosts. Housing replacement fee ranges don't actually get close to the cost to create/subsidize. Concerned with allowing STRs on non-owner occupied property.
S Bushor	Don't think the city has a good handle on how many STRs are out there, concerned about enforcement. How are 2 nd homeowners considered in this proposal? Some hosts are doing good things for long-term tenants but not guaranteed. How do we control STRs if you can't revoke zoning permits? Would prefer timeline to discontinue be 6 months instead of a year.
J Marks	Vacancy rate in Burlington has been the same for last decade, data doesn't support that STRs are cause of problem nor would stringent regulation be the solution. With rate of housing growth and same vacancy rate, maybe housing situation has improved. STR is not making a ton of money, hard for STR hosts to see the city want to take more revenue.
L Jensen	STR is not about making more money, but other benefits to city and keeping other rental unit at lower rate. Discussion feels like a step back to months ago. Can documented preservation of affordable housing be used to afford opportunity to create an STR? Request to treat two-unit properties like 3+ unit properties with regard to allowing host off-site.
Amanda	Have purchased and reinvested in a 3-unit property in Burlington which are now long-term rental housing. Have a garage with a bedroom using as an STR but don't live on the site, so it has not taken anything away from long-term housing. Concerned about how VT residents can afford a living, and STR is part of that.
Paul	Working with hosts who are not commercial operations, they are Vermonters doing the best they can for their property and make ends meet. COVID is impacting people's income and ability to afford property. Don't think fear about large amounts of housing being converted will be reality. Reconsider allowing single-unit STR without the host on site.
W Gonyaw	Allow more housing development in residential areas and housing strategies such as UVM housing more students. Housing shortage has been going on for decades, STRs don't contribute significantly. Allow STRs for properties without host on site; why is it ok for multi-units but not others? Tax instead of housing replacement is a

Wednesday, October 28, 2020

	good idea, will housing replacement be refunded if STR goes away. Use STR to support low-income tenant and keep up property.
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V. Commissioner Items

Action: N/A		
Motion: NA	Second: NA	Vote: NA
- Next meeting is November 10, 2020 at 6:30pm - E Lee invited other Commissioners to join a discussion of the JIPMP with CATMA - H Roen requested to hear more about expectations for post-COVID changes to parking demand for institutions in the JIPMP		

VI. Minutes & Communications

Action: Approved the minutes and accepted the communications		
Motion by: A Friend	Second: H Roen	Vote: Approved Unanimously
• Minutes Approved: October 13, 2020 • Communications filed enclosed in agenda packet, and additional communications posted: • Letter from D. Lyons • Four Communications regarding Certificates of Public Good for AT&T wireless antenna installations in downtown.		

VII. Adjourn

Adjournment		Time: 8:33 pm
Motion: H Roen	Second: J Wallace-Brodeur	Vote: Approved Unanimously



Signed: November 11, 2020

 Andy Montroll, Chair

Respectfully submitted by:



Meagan Tuttle, Comprehensive Planner