

Burlington Planning Commission

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Joint Planning Commission and City Council Form-Based Code Committee

REGULAR MEETING
Wednesday, August 26, 2015 – 5:30 P.M.
City Hall Conference Room 12

AGENDA

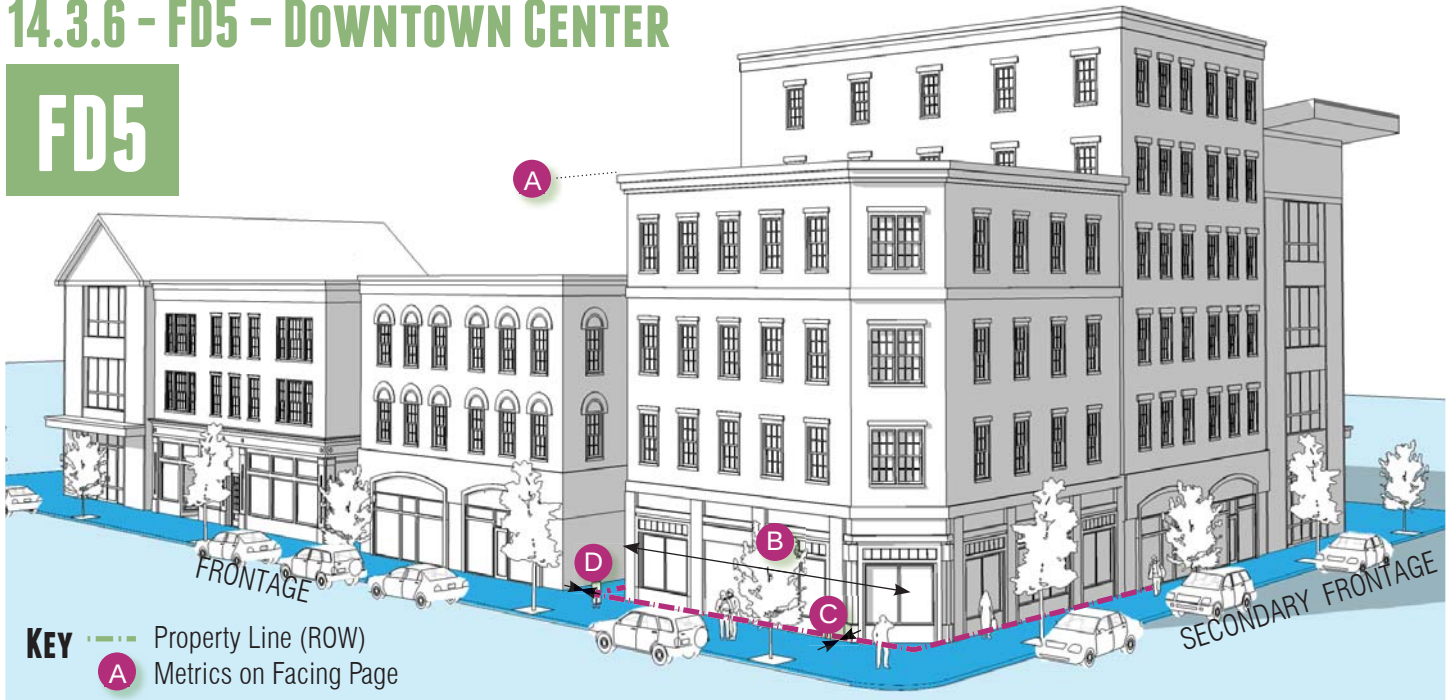
Note: times given are
approximate unless
otherwise noted.

- I. Agenda
- II. Overview of tonight's meeting
- III. Public Forum – (15 min)
- IV. Downtown Form-Based Code Review
The committee will continue its discussion of Sec. 14.7 Administration and Procedures, specifically the Administrative Relief and DRB Relief provisions. As time permits, the committee will begin discussing Sec. 14.3.6 FD5 Downtown Center
- V. Public Forum – (15 min)
- VI. Adjourn – (7:30pm)

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14.3.6 - FD5 - DOWNTOWN CENTER

FD5



THE DIAGRAM ABOVE IS FOR ILLUSTRATIVE PURPOSES ONLY. METRICS SHOWN THEREON SHALL HAVE REGULATORY EFFECT.

14.3.6-A- INTENT

To enhance the vibrant urban center with a variety of high density building types. Provide locally and regionally serving office, retail, service, hospitality, entertainment, Civic functions, as well as a wide variety of urban housing choices. This district also aims to reinforce the walkable nature of the urban core of the city.

Attached buildings

Small to large footprint

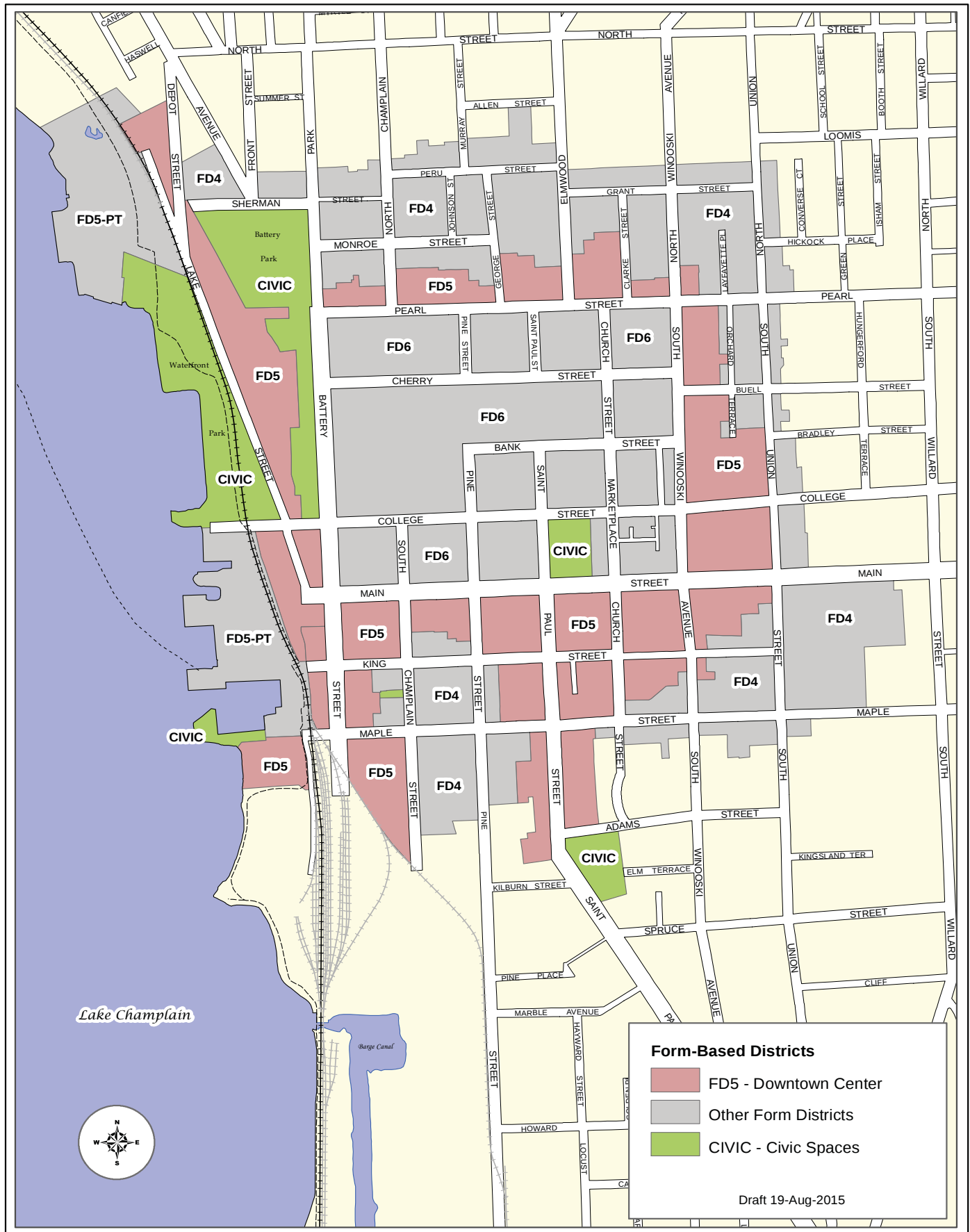
Building at the frontage line

No side Setback

3 to 6 stories

Outbuildings not common





14.3.6-B- ALLOWED BUILDING TYPES

BUILDING TYPE	STANDARDS
Carriage House	Section 14.4.4
Duplex	Section 14.4.6
Rowhouses	Section 14.4.7
Multi-Family: Small	Section 14.4.8
Multi-Family: Large	Section 14.4.9
Work/Live	Section 14.4.10
Mixed-Use	Section 14.4.11
Perimeter	Section 14.4.12
Civic	Section 14.4.13

14.3.6-C- BUILDING FORM

HEIGHT

Principal Building	3 Stories min. 4 Stories max., not to exceed 45 feet, as of right, or, 6-11 stories max., not to exceed 65-105' feet subject to Regulating Plan Special Requirements - Map 2 (See Section 14.2.6) and Major Impact Review	A
Outbuilding	2 Stories max. not to exceed 24 feet	
Backbuilding	1 Story max., not to exceed 15 feet	

MISCELLANEOUS

The linear distance along the Frontage between ground floor entries shall be no more than 60'.

14.3.6-D- LOT OCCUPATION & BUILDING PLACEMENT

Block Perimeter	2,000 ft. max.	
Lot Coverage	100% max.	
Frontage Buildout ¹	80% min. at Setback	B

¹In the absence of a Building Facade along any part of a Frontage Line, a Streetscreen shall be built on the same plane as the Facade. A Streetscreen shall be between 3.5 and 8 feet in height and may be no longer than 20 feet or 20% of the Frontage, whichever is less.

BUILDING DISPOSITION	STANDARDS
Sidyard	Section 14.6.3
Rearyard	Section 14.6.3

SETBACK (DISTANCE FROM ROW/LOT LINE)

Front Principal Building Outbuilding	0' min.; 6' max. In third Lot Layer	C
Side Principal Building Outbuilding	0' min. - 12' max. 5' min. along a shared FD boundary with FD4 0' min. or 3' min. on secondary frontage	D
Rear Principal Building Outbuilding	3' min. or 15' from rear Alley centerline 3' min. or 15' from rear Alley centerline	

MISCELLANEOUS

Fence materials shall not include barbed or razor wire. Chain link and wire fencing shall not be used along any Frontage Line. Woven cable fencing is allowed.

14.3.6-E- PARKING, LOADING & SERVICE

REQUIRED SPACES

No on-site parking is required.¹

On-site bike parking required. (See Section 14.6.9)

¹ If providing parking, see Section 14.6.8 - (Supplemental to Form Districts - Parking, Loading, Service and Driveways) for parking dimensional requirements.

LOCATION ON THE LOT

Parking Areas shall be located in the Third Lot Layer.

Garages shall be located in the Third Lot Layer, but may be located in the second Lot Layer if below-grade or above the first Story.

MISCELLANEOUS

At least one pedestrian route from all Parking Lots and Parking Structures shall be directly to a Frontage Line (i.e., not directly into a Building).

14.3.6-F- ENCROACHMENTS - REQUIRED SETBACKS

ENCROACHMENT TYPE	REAR
Steps to Building Entrance	A
Other Architectural Features	3' max.
Landscaping	A
Fences or freestanding walls	6' max. height
Driveways, Walkways	A
Utility Structures	A

KEY

Encroachment Allowed: A

Encroachment Not Allowed: -

14.3.6-G- ENCROACHMENTS - PUBLIC RIGHT-OF-WAY

(Along Primary and Secondary Frontages)

ENCROACHMENT TYPE	PUBLIC ROW
Frontage Type	
Shopfront: Awning and Canopy ¹	A
Officefront: Awning and Canopy ¹	A
Other Architectural Features - Minimum 10 ft above the Sidewalk	3' max.
Signs	A ²

¹ Subject to Awning and Canopy standards in Section 14.6.11 (Supplemental to Form-Districts - Urban Design Standards).

² With the exception of Freestanding Signs, Signs may Encroach into the ROW subject to the limits set forth in Section 14.6.10 (Supplemental to Form Districts - Sign Standards).

14.3.6-H- SIGNS

Maximum total number of Signs per Frontage	6
Maximum total number of Signs per Secondary	2
ALLOWED SIGN TYPES	STANDARDS
Awning & Canopy Sign	14.6.10-C
Band	14.6.10-D
Blade	14.6.10-E
Freestanding ¹	14.6.10-F
Marquee	14.6.10-G
Nameplate	14.6.10-H
Outdoor Display Case	14.6.10-I
Wall	14.6.10-J
Window	14.6.10-K

¹ 14' height max.

MISCELLANEOUS

See Section 14.6.10 (Supplemental to Form Districts - Sign Standards) for specific requirements.

14.3.6-I- USE TYPE

FD5

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 in the Form District.

RESIDENTIAL - GENERAL

Attached Dwellings	P
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RESIDENTIAL - SPECIAL

Assisted Living	P
Boarding House ¹	P
Community House (Sec. 14.6.7.d)	P
Convalescent /Nursing Home	P
Group Home	P

SHORT-TERM ACCOMODATIONS

Bed and Breakfast ¹	P
Historic Inn (Sec. 14.6.7.b)	P
Hotel, Motel	P
Shelter	P

RETAIL - GENERAL

ATM	P
Convenience Store	P
Fuel Service Station ² (Sec. 14.6.7.c)	P
General Merchandise/Retail	P

RETAIL - OUTDOOR

Automobile Sales/Rentals (Sec. 14.6.7.c)	P
Boat Sales/Rentals	P
Garden Supply Store	P
Open Air Markets	P
Recreational Vehicle Sales/Rentals	P

KEY

Permitted Use	P
Conditional Use	CU

END NOTES

¹Must be owner-occupied.

² Exterior storage and display not permitted.

³ Parking Structures shall be located behind a Perimeter Building (see Section 14.4.13).

14.3.6-I- USE TYPE

FD5

OFFICE & SERVICE

Animal Grooming	P
Beauty Salon/Barber Shop/Spa	P
Car Wash	P
Crisis Counseling Center (Sec. 14.6.7.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
Tailor Shop	P
Vehicle/Boat Repair/Service ²	P

HOSPITALITY/ ENTERTAINMENT/ RECREATION

Aquarium	P
Art Gallery/Studio	P
Bar, Tavern	P

HOSPITALITY/ ENTERTAINMENT/ RECREATION

Aquarium	P
Art Gallery/Studio	P
Bar, Tavern	P
Billiards, Bowling & Arcade	P
Cafe	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

14.3.6-I- USE TYPE**FD5**

Restaurant – Take Out	P
MANUFACTURING/ PRODUCTION/ STORAGE	
Boat Storage	P
Dental Lab	P
Food Processing	P
Machine/Woodworking Shop	P
Manufacturing	P
Manufacturing – Tour Oriented	P
Medical Lab	P
Production Studio	P
Photography Lab	P
Printing Plant	P
Research Lab	P
Warehouse/Storage ²	P
Warehouse, Self-Storage ²	P
EDUCATION & DAY CARE	
Day Care – Adult	P
Daycare – All (Sec. 14.6.7.a)	P
School – Post-Secondary & Community College	P
School – Primary	P
School – Secondary	P
School, -Trade, or Professional	P
CIVIC	
Courthouse	P
Fire Station	P
Library	P
Park	P
Police Station	P
Post Office	P

14.3.6-I- USE TYPE**FD5**

Worship, Place of	P
TRANSPORTATION & UTILITIES	
Recycling Center – Small ³ (2,000 sf or less)	P
Public Transit Terminal	P
Operations Center – Taxi/Bus ³	P
Parking Structure ³	P

KEY

Permitted Use	P
Conditional Use	CU

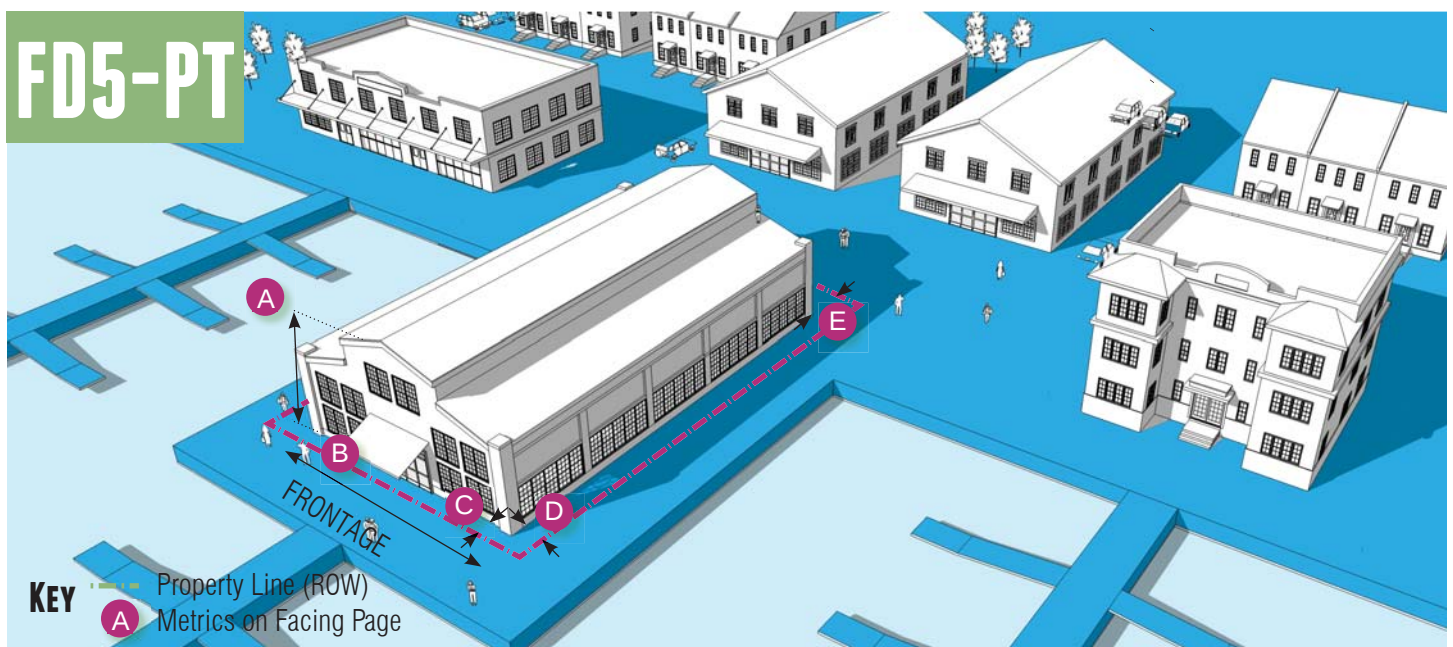
END NOTES

¹Must be owner-occupied.

² Exterior storage and display not permitted.

³ Parking Structures shall be located behind a Perimeter Building (see Section 14.4.13).

14.3.5 - FD5-PT - PUBLIC TRUST



THE DIAGRAM ABOVE IS FOR ILLUSTRATIVE PURPOSES ONLY. METRICS SHOWN THEREON SHALL HAVE REGULATORY EFFECT.

14.3.5-A- INTENT

To enhance the vibrant urban waterfront with a variety of building types and uses. Protect and improve the lakeshore and Access to the water and water-specific activities. This district aims to reinforce the walkable nature given its highly desirable waterfront location and close proximity to the urban city core.

Detached and attached buildings

Medium to large footprint

Building at or close to the frontage line

None to medium side Setback

1 to 3 stories

Outbuildings not common





14.3.5-B- ALLOWED BUILDING TYPES

BUILDING TYPE	STANDARDS
Mixed-Use	Section 14.4.11
Perimeter	Section 14.4.12
Civic	Section 14.4.13

14.3.5-C- BUILDING FORM

HEIGHT	
Principal Building	3 Stories max., not to exceed 38 feet as of right A
Outbuilding	2 Stories max., not to exceed 24 feet
Backbuilding	1 Story max. not to exceed 15 feet

MISCELLANEOUS

Lakeshore frontage shall be considered a second Principal Frontage.

14.3.5-D- LOT OCCUPATION & BUILDING PLACEMENT

Lot Coverage	80% max.
Frontage Buildout ^{1,2}	60% min. at Setback B

¹In the absence of a Building Facade along any part of a Frontage Line, a Streetscreen shall be built on the same plane as the Facade. A Streetscreen shall be between 3.5 and 8 feet in height and may be no longer than 20 feet or 20% of the Frontage, whichever is less.

²Frontage Buildout not applicable to a Lakeshore Frontage.

BUILDING DISPOSITION	STANDARDS
Edgeyard	Section 14.6.3
Sideward	Section 14.6.3
Rearward	Section 14.6.3

SETBACK (DISTANCE FROM ROW/LOT LINE)

Front		C
Principal Building	0' min.; 6' max.	
Outbuilding	In third Lot Layer	
Side		D
Principal Building	0' min. - 12' max.	
Outbuilding	0' min. or 3' min. on secondary frontage	

14.3.5-D- LOT OCCUPATION & BUILDING PLACEMENT

Rear		E
Principal Building	3' min. or 15' from rear Alley centerline	
Outbuilding	3' min. or 15' from rear Alley centerline	

WATERFRONT SETBACK

(Distance from the lake mean high water mark - 100' msl)

Principal Building	50' min.
Outbuilding	50' min.

MISCELLANEOUS

A building form with a chamfered corner is allowed only on corner Lots and only if a corner entry is provided.

See Section 4.5.4 (f) Special Flood Hazard Area regulations for specific requirements.

Fence materials shall not include barbed or razor wire. Chain link and wire fencing shall not be used along any Frontage Line. Woven cable fencing is allowed.

14.3.5-E- PARKING, LOADING & SERVICE

REQUIRED SPACES

No off-street parking is required.¹

On-site bike parking required. (See Section 14.6.9)

¹ If providing parking, see Section 14.6.8 - (Supplemental to Form Districts - Parking, Loading, Service and Driveways) for parking dimensional requirements.

LOCATION ON THE LOT

All on-site parking shall be provided within an enclosed Garage or Parking Structure. New or expanded Parking Areas and Parking Lots are not permitted.

Garages shall be located in the Third Lot Layer, but may be located in the Second Lot Layer if below-grade or above the first Story.

With the exception of areas designed for unloading and loading of materials, Parking Lots shall be separated at least five feet from buildings in order to provide a Sidewalk, landscaping, or other planting between the building and Parking Area.

MISCELLANEOUS

At least one pedestrian route from all Parking Lots, Parking Areas, Garages, and Parking Structures shall be directly to a Frontage Line (i.e., not directly into a Building).

14.3.5-F- ENCROACHMENTS - REQUIRED SETBACKS

ENCROACHMENT TYPE	REAR	LAKESHORE ¹
Steps to Building Entrance	A	A
Other Architectural Features	3' max.	3' max.
Landscaping	A	A
Signs	-	A
Awnings	-	15' max.
Fences or freestanding walls	6' max. height	A
Driveways, Walkways	A	A
Utility Structures	A	A
Accessory Structures that provide Access to water-related activities, such as docks, ferries, etc.	-	A
KEY		
Encroachment Allowed:	A	
Encroachment Not Allowed:	-	

¹ A 16' min public pedestrian Access must be maintained at all times.

MISCELLANEOUS

An existing non-conforming Principal Building that Encroaches into a required Setback may be expanded vertically to the height of the pre-existing building provided that expansion does not increase the Encroachment into the required Setback.

14.3.5-G- ENCROACHMENTS - PUBLIC RIGHT-OF-WAY

(Along Primary and Secondary Frontages)

ENCROACHMENT TYPE	PUBLIC ROW
Frontage Type	
Shopfront: Awning and Canopy	A ¹
Officefront: Awning and Canopy	A ¹
Other Architectural Features - Minimum 10 ft above the Sidewalk	3' max.
Signs	A ²

¹ Subject to Awning and Canopy standards in [Section 14.6.11 \(Supplemental to Form-Districts - Urban Design Standards\)](#).

² With the exception of Freestanding Signs, Signs may Encroach into the street ROW subject to the limits set forth in [Section 14.6.10 \(Supplemental to Form Districts - Sign Standards\)](#).

14.3.5-H- SIGNS

Maximum number of Signs per frontage	4
Maximum total number of Signs per Secondary frontage	2
ALLOWED SIGN TYPES	STANDARDS
Awning & Canopy Sign	14.6.10-C
Band	14.6.10-D
Blade	14.6.10-E
Freestanding ¹	14.6.10-F
Marquee	14.6.10-G
Nameplate	14.6.10-H
Outdoor Display Case	14.6.10-I
Wall	14.6.10-J
Window	14.6.10-K

¹ 14' height max.

MISCELLANEOUS

See [Section 14.6.10 \(Supplemental to Form Districts - Sign Standards\)](#) for specific requirements.

14.3.5-I- USE TYPE (SOUTH OF MAIN)

FD5-PT

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 in the Form District.

Only the following uses are permitted within that portion of the Downtown Waterfront – Public Trust District (DW-PT) located north of the centerline of Main Street extended:

Government facilities: such as water and sewer plants; Coast Guard and naval facilities; roads that are accessory and transportation facilities accessory to the uses permitted under this section; or existing roads and similarly sized extensions of those roads, that service the filled public trust lands and immediately adjacent lands.	P
Indoor or outdoor parks and recreation uses and facilities including parks and open space, marinas open to the public on a non-discriminatory basis, water dependent uses, boating and related services.	P
The arts, educational and cultural activities including theaters and museums.	P
Fresh water and other environmental research activities.	P
Services related and accessory to the uses permitted above, including restaurants, snack bars, and retail uses and ancillary parking; only those uses that are subordinate and customarily incidental to the uses listed shall be considered as related and accessory services.	P
Railroad, wharfing and storage uses.	P
Publicly accessible restrooms. Any structure larger than 1000 sf in size, other than roads, parking lots, railroad tracks or recreation paths, shall include publicly accessible restrooms with appropriate exterior signs indicating their availability. The DRB may waive this provision if it so determines that adequate publicly accessible restrooms are available within close proximity.	P

14.3.5-I- USE TYPE (NORTH OF MAIN)

FD5-PT

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 in the Form District.

Only the following uses are permitted within that portion of the Downtown Waterfront – Public Trust District (DW-PT) located north of the centerline of Maple Street extended north to the centerline of Main Street extended:

Facilities for transporting pedestrians and vehicles upon Lake Champlain by ferry and cruise vessels, including necessary docks, wharfs, maintenance facilities, administrative offices, gift shops, snack bars and related parking facilities.	P
Marine related retail facilities.	P
Restaurants.	P
Inns with public space, including restaurant, restroom and retail use. Restrooms in the inns shall be available to the public. The authorization granted under this subdivision is contingent upon the prior and continuing availability in Burlington Harbor of 45 transient dock slips which are appropriately marked for convenient access. The authorization granted under this subdivision is also contingent upon the availability, in perpetuity, of uninterrupted public access along the shoreline of Lake Champlain from the centerline of Maple Street extending north to the centerline of Main Street.	P
Public Markets.	P
Publicly Accessible Restrooms. Any structure larger than 1000 sq. ft. in size, other than roads, parking lots, railroad tracks or recreation paths, shall include publicly accessible restrooms with appropriate exterior signs indicating their availability. The DRB may waive this provision if it so determines that adequate publicly accessible restrooms are available within close proximity.	P

KEY

Permitted Use	P
Conditional Use	CU

14.7.3 - VARIATION FROM THE FORM: ADMINISTRATIVE RELIEF, DRB RELIEF, AND VARIANCES

The Form-Based Code is intended to result in By-Right approval where development occurs strictly in conformance with the requirements of the applicable Form District. In some instances, however, it may be necessary to vary the prescribed form in order to accommodate unique site and/or building circumstances. In such instances, an applicant may seek Administrative or Development Review Board approval for relief from the requirements as set forth below. Any and all relief from the prescribed standards shall run with the land and be binding on the Property Owner and its/their successor and assigns. Applications requesting relief shall be made in writing and in the form as determined by the Department.

- a) Administrative Relief. Table 14.7.3-A Administrative Relief below sets forth variations from the prescribed standards that may be granted by the Director. No other variations to the prescribed standards shall be permitted except as approved by the Development Review Board below.
 - i. Any request for Administrative Relief shall extend the requirements of 24 VSA 4448(d) regarding Administrative decisions for an additional 30 days in order to provide for opportunities for public notice and comment pursuant to Departmental procedures.
 - ii. Decisions by the Director regarding any Administrative Relief granted shall be made in writing and upon affirmative findings that:
 - A. The relief granted is the minimum necessary to achieve the desired result;
 - B. Granting the relief will yield a result equal to or better than in strict compliance with the standard;
 - C. The property will be developed following the intent and all other applicable standards of the Form District: and,
 - D. Any additional findings as may be required by Table 14.7.3-A (Administrative Relief) below.

TABLE 14.7.3-A - ADMINISTRATIVE RELIEF

TYPE OF RELIEF	LIMITS OF RELIEF GRANTED	REQUIRED FINDINGS	STANDARDS REFERENCE
BUILDING SETBACKS: A building Setback may vary from the maximum or minimum Front and Side Setback requirements. Buildings may be placed closer to a side property line shared between FD5 and FD4	Maximum relief of 20% from the required maximum or minimum No side setback required along a property line shared between FD5 and FD4.	The variation will better allow the proposed Building to blend with existing and/or Adjacent buildings along the Primary street Frontage. Adjacent properties in both Form Districts are in common ownership and are being developed jointly.	Section 14.3: Specific to Form Districts and Civic Spaces Section 14.3: Specific to Form Districts and Civic Spaces;
BUILDING HEIGHT: The maximum Building height may increase on a sloping Lot	Maximum relief of an additional 10% of the numerical maximum height, not to exceed 5 feet with no additional stories allowed	Granting the relief is necessary to enable compliance with the Principal Entrance Level requirements and the required ground level floor-to-ceiling height.	Section 14.3: Specific to Form Districts and Civic Spaces; Section 14.5: Specific to Frontage Types; and Section 14.6.5 Building Height
The maximum Building height may be increased within 50-ft of the boundary with the Form District with a lower maximum building height.	Maximum relief of one additional story within 50-ft of the boundary with the Form District with a higher maximum building height, not to exceed 12 feet.	Adjacent properties in both Form Districts are in common ownership and being developed jointly.	Section 14.3: Specific to Form Districts and Civic Spaces
DEPTH OF RECESSED ENTRIES: Allows for a deeper entry recess.	Maximum entry recess of 8'	A deeper entry is necessary for improved visitability.	Section 14.5: Specific to Frontage Types
FRONTAGE BUILDOUT: A reduction in the amount of the Principal Frontage that is occupied by a building or a Streetscreen.	Maximum of 10% from the required Frontage Buildout	The relief is necessary to enable Access to the rear of the Lot because of constraints due to existing Lot Width and/or Buildings.	Section 14.3: Specific to Form Districts and Civic Spaces;
FRONTAGE BUILDOUT & SETBACK: A reduction in the amount of the Principal Frontage that is occupied by a building or a Streetscreen.	Minimum necessary to satisfy the requirements of the Building and Fire Safety Codes.	An adjacent pre-existing Building has doors and/or windows on a side elevation and a greater setback is required.	Section 14.3: Specific to Form Districts and Civic Spaces

TABLE A - ADMINISTRATIVE RELIEF

TYPE OF RELIEF	LIMITS OF RELIEF GRANTED	REQUIRED FINDINGS	STANDARDS REFERENCE
FRONTAGE: A reduction in the minimum elevation of the finished level above the sidewalk	Maximum relief of 6"	The relief is necessary for improved visitability.	Section 14.5: Specific to Frontage Types
GLAZING: A reduction in the amount of required minimum glazing on Primary and Secondary Facades	Maximum of 10% from the required Glazing	The relief is necessary to meet the requirements of the Residential and/or Commercial Building Energy Code	Section 14.4: Specific to Building Types, Table 14.4.3-A Street Activation and Section 14.5: Specific to Frontage Types
A reduction in the maximum linear distance between window openings	Maximum of 10% of the required linear distance between windows	The relief is necessary for the creation of stronger distinctions between individual Frontage Types and at Building corners.	Section 14.4: Specific to Building Types, Table 14.4.3-A Street Activation
PARKING AREA LOCATION: Parking Areas may be located in the Second Lot Layer.	The lesser of 25% or 20-feet of a Frontage may be occupied by parking.	Parking shall be screened from view along the Frontage.	Section 14.3: Specific to Form Districts and Civic Spaces
PARKING SPACE DIMENSIONS: Parking space(s) size may be reduced.	Up to 30% of the total parking spaces may be designed and designated for compact cars.		Section 14.6.7: Parking, Loading, Service and Drive-ways
PORCH DIMENSIONS: The width and depth of a Porch may vary from the maximum or minimum requirements.	Maximum relief of 10% from the required maximum or minimum width and/ or depth provided a 5' minimum depth and 36 sqft minimum total floor area is maintained.	The relief is necessary due to constraints created by existing Lot and/or Building dimensions.	Section 14.5: Specific to Frontage Types

- b) Relief Granted by the Development Review Board. The following relief from the prescribed standards may be granted by the Development Review Board:
- i. DRB Relief: Relief from any non-numerical standard and any numerical standard by no more than 20% of such requirement or an additional 10% beyond any Administrative Relief that may be granted, may be granted by the Development Review Board after review and recommendation by the Design Advisory Board and a Public Hearing. In granting such relief, the DRB shall make affirmative findings that:
 - A. the relief is necessary in order to accommodate unique site and/or Building circumstances or opportunities;
 - B. the relief granted is the minimum necessary to achieve the desired result;
 - C. the property will otherwise be developed consistent the purpose of this ordinance, the intent of the Form District and all other applicable standards;
 - D. the modification does not impose an undue adverse burden on existing or future development of adjacent properties; and,
 - E. granting the relief will yield a result equal to or better than strict compliance with the standard being relieved.
 - ii. Relief for Brownfield Remediation: Subject to the requirements set forth below, the DRB may waive or modify any relevant dimensional and use standards of the applicable Form District and other limitations imposed by this Chapter based on a demonstrated nexus with specific development limitations imposed by an approved corrective action plan, record of decision, or deed restriction limiting potential reuse and redevelopment or an eligible property.
 - A. Applicability: The provisions of this Section shall only be available to the following types of properties:
 1. Properties eligible to participate in the Redevelopment of Contaminated Properties Program (RCPP) within the Agency of Natural

Resources, Department of Environmental Conservation created pursuant to 10 VSA §6615a or are otherwise impacted by a VT DEC approved Corrective Action Plan (CAP) for such a property;

2. Property listed on the national priorities list of superfund sites established under the federal Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") or otherwise impacted by a US EPA approved Record of Decision (ROD) for such a property; and/or,

3. Properties which have a hazardous waste certificate under 10 VSA §6606 and which are undergoing corrective action under the federal Resource, Conservation and Recovery Act ("RCRA") pursuant to the Vermont Hazardous Waste Management Regulations (VHWMR) §7-105(b) or are otherwise impacted by a VT DEC approved Corrective Action Plan (CAP) for such a property.

B. Additional Application Requirements: In addition to the submission requirements listed in this paragraph 14.7.3.b.ii, the following information as applicable specifying any and all use and development limitations of the site shall also be provided at the time of application:

1. A VT DEC Approved Corrective Action Plan (CAP) pursuant to 10 VSA §6615a (h);
2. A Record of Decision (ROD) issued by the US EPA;
3. A VT DEC Approved Corrective Action Plan (CAP) pursuant to VHWMR) §7-105(b); and/or,
4. Any Warranty Deed specifying any and all use and development limitations of the site.

C. Review Standards: Any and all variations from the prescribed form for Project Plans involving an eligible Brownfield Remediation shall only be authorized by the DRB upon an affirmative finding that:

A. Any waiver or modification so granted is based on a demonstrated nexus with the development limitations imposed by an approved corrective action plan, record of decision, or deed restriction limiting potential use and redevelopment;

B. Any waiver or modification so granted is the minimum necessary to grant relief from the specific limitations imposed by an approved corrective action plan, record of decision, or deed restriction that would prevent the site from being redeveloped in strict conformance with the underlying requirements of the ordinance; and,

C. The redevelopment of the effected site as proposed satisfies the goals of the municipal development plan, furthers the intent of the Form District in which it is located, and addresses the form-based standards of this article more effectively than redevelopment in strict conformance with the underlying standards of this ordinance.

c) Variances: Any other deviation from the prescribed standards for Project Plans other than pursuant to the above shall require the Owner to request and obtain a Variance, which may be granted by the Development Review Board in accordance with Article 12, Part 1 Variances of the *Burlington Comprehensive Development Ordinance*.

14.7.4 APPEALS

Any decision or action made under this Article may be appealed as provided under the provisions of Article 12, Part 2 Appeals of the *Burlington Comprehensive Development Ordinance*.

Pursuant to the authority of 24 VSA §4471(b), the appeal of any decision of the Development Review Board pertaining to an appeal of an Administrative decision heard pursuant to Sec. 12.2.2 of the BCDO shall be heard on the record by the VT Superior Court - Environmental Division.