

**Burlington Planning Commission
Ordinance Committee**

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

*Bruce Baker
Lee Buffinton
Andy Montroll
Jonathan Stevens
Phil Hammerslough*



Burlington Planning Commission

Ordinance Committee

Meeting Notice

Thursday, August 7, 2014 @ 12:00 PM

Planning & Zoning Conference Room, Ground Floor, City Hall

AGENDA

1. **Update:** Proposed Zoning Amendment regarding Major Impact Review, PUD and Subdivision Review. The full Planning Commission will review this proposed amendment to the Comprehensive Development Ordinance at their August 12th meeting.
2. **Discussion.** Parking dimensional standards. See attached information and copy of CDO Article 8 Parking.
3. **Discussion.** Short term rentals – Air B&B concept. The CDO currently does not clearly define such short term “hotel” rentals. See attached findings of fact regarding DRB decision on short term rental situation.

Next Meeting – September 4, 2014

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Burlington Development Review Board

149 Church Street
Burlington, VT 05401
www.burlingtonvt.gov/PZ
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

Austin Hart, Chair
Jim Drummond
Michael Long
Brad Rabinowitz
Missa Aloisi
Jonathan Stevens
Bob Schwartz
Alexandra Zipparo, (alternate)
Israel Smith, (alternate)

Burlington Development Review Board
Findings of Fact
Deliberative Hearing June 23, 2014

IN RE: Appeal of Administrative Decision; regarding Notice of Violation 269613: Change of use: conversion of single family residence to a hotel without an approved zoning permit.

Members Present:

Austin Hart, Jonathan Stevens, Michael Long, Jim Drummond, Brad Rabinowitz, Alexandra Zipparo, Israel Smith

Staff member present: Mary O'Neil

File 14-1089AP **Location:** 17 Eastman Way **Zone:** WRL (Waterfront Residential Low Density)

Notice of Violation: May 5, 2014 **Appeal filed:** May 15, 2014

Appellant/Representative: Lois Helland/Randy Amis
400 Fox Moor Lane
Eau Claire, WI 54701

I. Findings

Background

- Existing single family home., built in 2005. Contains 6 Rooms with 2 bedrooms and 2 bathrooms.
- June 25, 2013, property with a single family home transferred to Lois Helland;
- Property is listed on the AirBnB Website for rent at \$325 per night.
- August 2013, comment from a guest on website supports claim that the illegal rental of the lodging has occurred at least since that time.
- November/December 2013, neighbors started filing complaints with the Code Enforcement Office alleging Premises being rented out on a nightly/weekly basis that resulted in excessive noise.
- December 4, 2013 a notification/warning letter was sent to Lois Helland, owner of property, informing her of complaints and providing an opportunity to refute the allegations.
- December 12, 2013, received a response from Mark Helland, co-owner, requesting additional week to refute the allegations; one week extension was granted.
- December 2013, Code Enforcement continued to receive additional complaints.

- April 2014, Advertisement on AirBnB website confirming premises continued to be rented on a daily basis (with a minimum 3 day stay). Calendar on AirBnB website indicates Premises is booked until August 2015.
- April 2014, AirBnB website discloses that Brooke and Alissa Monte manage the property and live nearby.
- Code determined that based on use the structure is a “hotel” as defined in the Comprehensive Development Ordinance, as follows:

Hotel, Inn or Motel: An establishment providing for a fee three or more temporary guest rooms and customary lodging services, and subject to the Vermont rooms and meals tax.

- A hotel, motel or inn is not a permitted use in the WRL zoning district.

Appellant Statement:

1. Use of property is a permitted use, single family residence, in a WRL district
2. Use is inconsistent with Hotel, Inn or Motel; as defined in Article 13 Sec. 13.1.2 of the CDO
3. Residence is one dwelling unit, not 3, or rooms.
4. There is no hotel lodging services such as maid service, room service, valet parking, concierge services or other “customary lodging services” provided
5. Owner isn’t occupying the premises at the time of the rentals nor is a manager
6. There is nothing to distinguish the use being made of the property now from any other rental of a single family residence on the lake.
7. The ordinance definition of a hotel does not apply to the use of this property.
8. Appellant request a determination that there is no zoning violation in this matter.

Determination and Conclusions

- The subject residence is advertised/rented on a short-term basis, i.e. for less than a 30-day period.
- The website advertisement refers to as many as 6 people renting at any given time. This does not comply with the allowable occupancy by a single “family” as defined in the CDO that limits the number of unrelated occupants.
- The nature of short term lodging has changed with a similar type of rentals that can now be found all over the world.
- All hotels range in services from the very basic bed and TV, to luxury hotels with a great variety of services.
- Typical lodging services found in many hotels are provided at the subject rental, as evidenced by website indicating fresh linens, shampoo, and coffee being provided, that the kitchen is stocked, a land line phone is available for incoming/outgoing calls and a bottle of wine is served. This situation certainly provides more services than one would find in typical house rentals.
- Managers for the property greet customers upon arrival, open the door, show the house, and leave the key (similar services to a concierge). They are available via phone (similar to picking up the phone in a hotel room).
- Renting for less than a 30 day period requires payment of Vermont rooms and meals tax.
- The residence has not been registered or inspected as a rental regarding meeting minimum life safety codes.

- The use of the subject house complies with the CDO definition of a “**Hotel, Inn or Motel**”. It differs from a single family residence as it serves the public by providing short-term rental subject to rooms and meals taxation. Further, the rental provides certain guest services typically found in a hotel, but not found in a usual rental situation.

Related CDO Definitions:

- o **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. Subject residence is not owner-occupied, does comply with short-term lodging, and morning meals are not served.*
- o **Boarding House:** *A building or premises where rooms are let to individuals for compensation for a period of time greater than thirty (30) days, and where meals may be regularly served in a common dining area. Hotels, motels, apartment houses, bed and breakfasts, dormitories, sorority, fraternities and historic inns, shall not be considered boarding houses. Individual rooms are not rented for compensation, the entire structure is. In subject case, the period of rental is less than 30 days for the entire house.*
- o **Commercial:** *Any activity involving the purchase, sale, storage, or other transaction regarding the disposition of any article, substance, commodity, or services for consideration and profit; and the maintenance or conduct of offices, professions, dwelling rooms and units, or recreational or amusement enterprises conducted for profit. This definition supports a change in use at the premises from residential to commercial use as the renting of the unit is conducted for profit.*
- o **Dwelling Unit, Single Detached:** *Free standing residential structure containing a single dwelling unit occupied by a "family." and where rooms are not let to individuals. Also known as a single family residence (SFR). (See definition of Family). There is no consistency regarding the number of or relationship of tenants. According to the comments listed within the AirBnB advertisement, at times there up to six unrelated occupants. Therefore, occupancy is not always by a “family” as defined in the CDO as follows:*
- o **Family:** *One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:*
 - *Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).*
 - *A “functional family unit” as defined below.*
 - *Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the “Fair Housing Amendments Act of 1988”.*
 - *A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4412(5), as the same may be amended from time to time.*
 - *No more than four unrelated adults and their minor children.*

For purposes of this definition of family, a group of adults living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods shall

be regarded as a “functional family unit” and shall also qualify as a family hereunder. There is no consistency with tenants.

- o **Owner Occupied:** *Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year. Owner does not occupy the dwelling for 50% of the year. Her primary residence is in Eau Claire, WI.*
- o **Public Use:** *A use that is owned and operated by a public agency, or by a private/non-profit entity for use by the general public without unreasonable restriction. This dwelling unit is privately owned and used by the general public without unreasonable restrictions.*
- o **Rental Dwelling Unit:** *Any dwelling unit which is made available to a non-owner by another for compensation, pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied. Chapter 18 of the Burlington Code of Ordinances does not recognize the unit as a rental if rented for less than a 30-day period.*
- o **Residential:** *Regularly used by its occupants as a permanent abode, which is made one’s home as opposed to one’s place of business and which has housekeeping and cooking facilities for its occupants only. The current use does not meet this definition as occupants do not use it as a permanent abode and Owners are compensated for the temporary use the house.*
- o **Rooming Unit:** *as defined by Chapter 18 of the Burlington Code of Ordinances. Examples include dormitories, fraternities, sororities, and boarding houses. This shall not include units for the temporary occupancy of patients or guests in a hospital, hotel, motel or convalescent facility. Any four (4) “rooming units” shall be considered a single housing unit in calculating.*
Rooming Unit, as defined by Chapter 18 of the Burlington Code of Ordinances, 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. The current occupancy of this residence is as a single entity and not by rooms.

I. Evidence Presented

The Board examined the materials submitted in support of this request.

II. Minutes

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

IV. Motion

Motion: Austin Hart

I move that the Board uphold the Code Enforcement findings regarding Notice of Violation #269613/14-1089AP and adopt the staff recommended findings with the following modifications:

The Appellant did not contest many of the factual allegations of Code Enforcement, but challenged the conclusion that the use had been changed from the permitted single family use. The Board heard testimony from the Appellant and neighbors on the nature of the use and the impacts on the

neighborhood. Although the use, as described at the hearing, does not neatly fit into the definition of “hotel, inn or motel”, the Board finds that the use most closely fits within that category. The CDO directs the Board to find the most appropriate use classification where the use does not clearly fit into any named type of use. Given the significant impacts on the neighborhood, which are different from those typically associated with single family use, the Board cannot find that the property is being used simply as a single family home. The Board is only upholding the notice of violation. The Board does not have the authority to impose sanctions or other remedies as requested by Code Enforcement. Pursuing sanctions or remedies is up to Code Enforcement.

Second: Brad Rabinowitz

Vote: 6-1 (J. Stevens opposed), **motion carried**

Dated at Burlington, Vermont, this ____ day of July, 2014.

Respectfully Submitted,

Austin D. Hart, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. The appeal shall be taken in such a manner as the Supreme Court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board’s decision.

ARTICLE 8: PARKING

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes the requirements for off-site parking throughout the city. It also includes parking for bicycles and requirements for institutional parking management plans.

PART 1: GENERAL REQUIREMENTS

Sec. 8.1.1 Purpose

It is the purpose of this article to:

- (a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;
- (b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;
- (c) Reduce congestion in the streets and contribute to traffic safety; and
- (d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.

These regulations are enacted under the provisions of **24 V.S.A. Chapter 117**

Sec. 8.1.2 Applicability

No structure shall be erected or altered, or any use changed or established, unless or until the provisions of this Article have been met. No onsite parking shall be required or provided within the Urban Reserve District.

Sec. 8.1.3 Parking Districts

The demand for parking is highly dependent on the context within which a given use or structure is located. Factors such as proximity to other related uses, availability of public transportation, the density of land uses, and the ability to share parking with nearby uses are all factors which influence the demand for individual and dedicated off-site parking. For the purposes of this Article, the following three (3) Parking Districts as illustrated in **Map 8.1.3-1** are hereby created:

(a) Neighborhood Parking District:

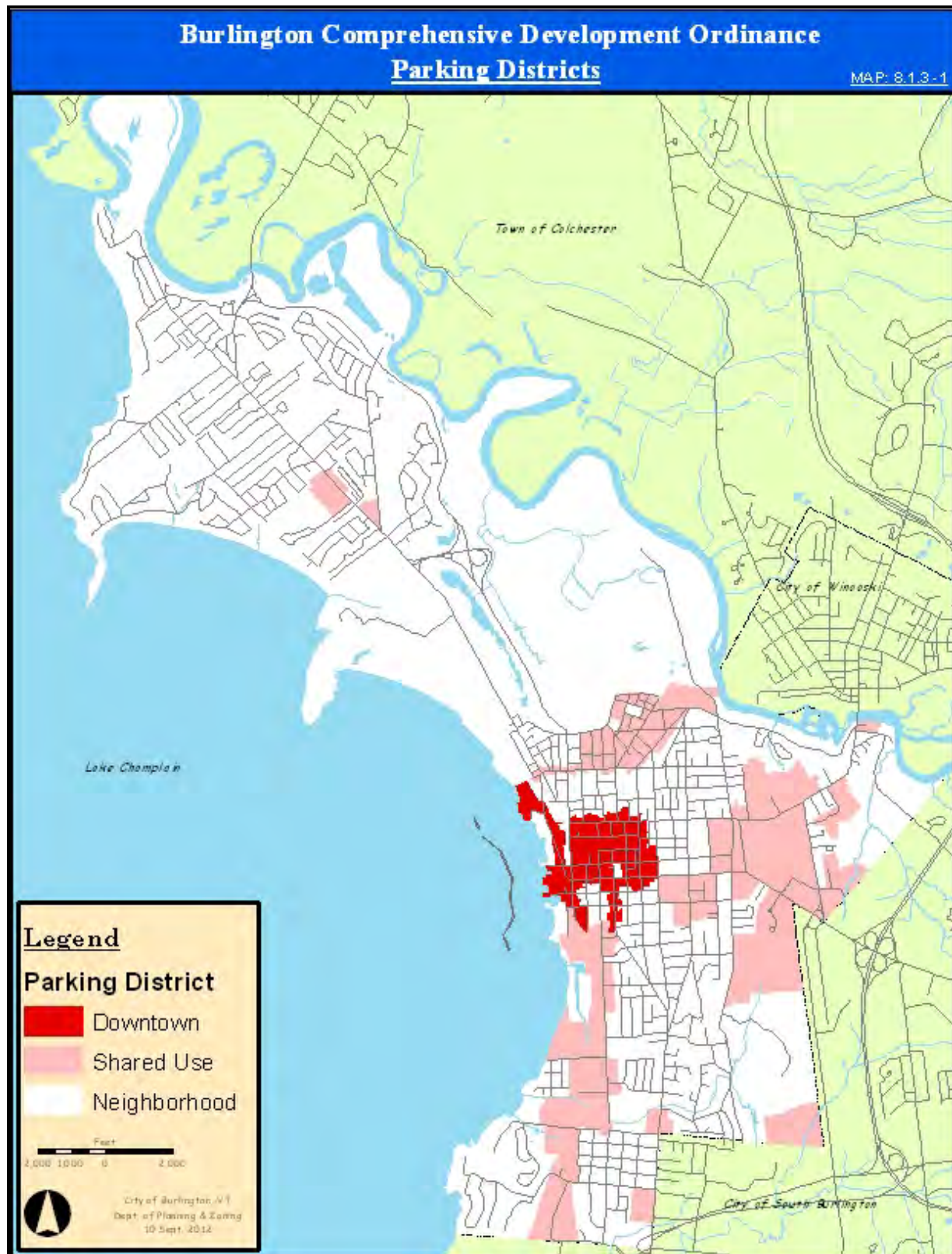
This parking district establishes the baseline of parking requirements throughout the city where the demand for offsite parking is largely dependent on the needs and characteristics of an individual site or land use.

(b) Shared Use Parking District:

This parking district reduces the requirements from the baseline standards recognizing that opportunities exist to share parking demand between related nearby land uses, and that travel to and between these uses may not be strictly automobile dependent.

(c) Downtown Parking District:

This parking district further reduces the requirements from the baseline standards recognizing that extensive sharing of parking demand between nearby land uses occurs; that a majority of travel to and between land uses is independent from an automobile; and that an array of public parking facilities and frequent transit service greatly reduces the need for independent parking for individual land uses.



Map 8.1.3 - 1 Parking Districts

Sec. 8.1.4 Existing Structures

Any structure or land use lawfully in existence prior to the adoption of this ordinance shall not be subject to the requirements of this Article as long as the kind or extent of use is not changed, and provided further that any parking facilities now serving such structures shall not in the future be reduced below such requirements.

Sec. 8.1.5 Existing Structures - Change or Expansion of Use

Whenever there is an alteration or conversion of a structure or a change or expansion of a use which increases the parking requirements, the total additional parking requirements for the alteration, conversion, change, or expansion shall be provided in accordance with the requirements of this Article. A waiver may be requested pursuant to the provisions of **Sec. 8.1.15**.

Sec. 8.1.6 Existing Structures: Exemption in Downtown District

Any nonresidential use within a structure lawfully in existence prior to January 1, 2007 in any Downtown Parking District shall be exempt from the requirements of this Article when applying for a change to any other nonresidential use.

Sec. 8.1.7 Non-conforming Residential Structure

Where additions or conversions to existing residential structures within a Neighborhood or Shared Use Parking District add living space but do not add dwelling units, and such sites do not currently meet the parking standards of **Sec. 8.1.8**, one (1) parking space shall be provided for each additional room. Single detached dwellings shall be exempt from this requirement.

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.
- (b) 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 Districts	Shared Use Districts	Downtown Districts
RESIDENTIAL USES	Per Dwelling Unit except as noted		
Multi-unit attached dwelling units, studio units or 1-bedroom dwelling unit.	2	1	1
Single Family detached and Duplex	2	2	1
RESIDENTIAL USES - SPECIAL	Per Dwelling Unit except as noted		
Assisted Living	0.5	0.5	0.4
Bed and Breakfast (per room, in addition to single-family residence)	1	0.75	0.5
Boarding House (per two (2) beds)	1	0.75	0.5
Community House	1	0.75	0.5
Convalescent Home (per four (4) beds)	1	1	1
Dormitory (per two (2) beds)	1	1	1
Group Home (per two (2) beds)	1	1	1
Historic Inn (per room, in addition to single-family residence)	1	0.75	0.5
Sorority & Fraternity (per two (2) beds)	1	1	1
NON-RESIDENTIAL USES	Per 1,000 square feet of gross floor area (gfa) except as noted		
Adult Day Care (per two (2) employees)	1	1	1
Agricultural Use	None	None	None
Amusement Arcade	2	1	0
Animal Boarding/Kennel/Shelter	2.5	1.5	1
Animal Grooming (per grooming station)	1	1	0
Animal Hospitals/Veterinarian Office	3	2	1
Appliance & Furniture Sales/Service	2.5	1	1
Aquarium	1.3	1	1
Art Gallery	3.3	2.5	1
Auction Houses	3.3	2.5	1
Automobile & Marine Parts Sales	2.5	1.5	1
Automobile Body Shop	2 plus 1/bay	2 plus 1/bay	2 plus 1/bay
Automobile Repair/Service	2 plus 1/bay	2 plus 1/bay	2 plus 1/bay
Automobile Sales – New & Used	2	2	1
Bakery - Retail	2.5	2.5	1

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
Bakery - Wholesale	2	2	1
Bank, Credit Union	2.5	2	1
Bar/Tavern	4	3	None
Beauty/Barber Shop (per station/chair)	1	1	None
Bicycle Sales/Repair	2.5	1	None
Billiard Parlor (per game table)	1	1	None
Boat Repair/Service	2	2	1
Boat Sales/Rental	2	2	1
Boat Storage	3	2	1
Bowling Alley (per lane)	3	2	1
Building Material Sales	3.3	2.5	1
Café (per four (4) seats)	1	1	None
Camp Ground (per camping space)	1	1	1
Car Wash (stacking spaces per wash bay)	4	4	4
Cemetery	None	None	None
Cinema (per four (4) seats)	1	1	None
Club, Membership	3.3	2.5	1
Community Center	3.3	2.5	1
Community Garden (per ten (10) plots)	1	1	None
Conference Center	3	2	1
Contractor Yard (per 1,000 gfa of office space)	2.5	2	2
Convenience Store	3	2	1
Convention Center	n/a	3	2
Courthouse	n/a	3.3	2
Crematory (per FTE employee)	1	1	1
Crisis Counseling Center	4	3	1
Daycare - Home (6 children or less)	None	None	1 drop-off
Daycare - Large (Over 20 children) (per two (2) employees)	1 plus 1 per 5 children	1 plus 1 per 5 children	2 drop-off
Daycare - Small (20 children or less) (per two (2) employees)	1	1	1
Dental Lab	2	1	None
Distribution Center (per 3,000 gfa)	1	0.75	0.75
Dry Cleaning Plant	1.3	1	1

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
Dry Cleaning Service	2.5	2	2
Film Studio	3.3	2.5	1
Fire Station (per apparatus)	2	2	1
Food Processing	1.3	1	1
Fuel Service Station (per employee/shift)	1	1	1
Funeral Home (per four (4) seats)	1	1	1
Garden Supply Store (per 1,000 gfa of retail area.)	3	2	1
General Merchandise/Retail	3	2	None
Grocery Store	3	2	None
Hazardous Waste Collection/Disposal (per two (2) employees on the largest shift)	1	1	n/a
Health Club	3	2	1
Health Studio	2	1	None
Hospitals (per patient bed)	2	2	2
Hostel (per two (2) beds)	0.5	0.5	None
Hotel/Motel (per room)	1	0.75	0.75
Laundromats (per washing machine)	1	1	None
Library	1.3	1	None
Lumber Yard (per 1,000 gfa of retail area.)	3	2	1
Machine Shop/Woodworking Shop	1.3	1	1
Manufacturing	1.3	1	1
Manufacturing - Tour Oriented	1.3, plus 3 per 1,000 gfa devoted to patron use.	1.3, plus 2 per 1,000 gfa devoted to patron use.	1
Marina (per berth)	0.5	0.5	0.5
Medical Lab	2	1	None
Micro-Brewery/Winery	3	2	1
Museum	1.3	1	1
Office - General	2	2	2
Office - Medical, Dental	3	2	1
Open Air Markets	None	None	None
Operations Center - Taxi (per three (3) employees)	1	1	1
Operations Center - Truck/Bus (per 3,000 gfa)	1	0.75	0.75
Park (per playing area)	5	None	None

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
Parking Garage – Private	None	None	None
Parking Lot – Private	None	None	None
Performing Arts Center (per four (4) seats)	1	1	None
Performing Arts Studio	1	None	None
Pet Store	2.5	1	None
Pharmacy	3	2	1
Photo Studio	2.5	1	None
Photography Lab	1	1	None
Police Station	2.5	2	2
Post Office	1.3	1	1
Post Office - Local	2	2	None
Printing Plant	1.3	1	1
Printing Shop	2	2	None
Public Transit Terminal	1 per 200 gfa of public waiting space	1 per 200 gfa of public waiting space	None
Public Works Yard/Garage	None	None	None
Radio & TV Studio	2	2	2
Rail Equip. Storage & Repair	None	None	None
Recording Studio	1.3	1	1
Recreational Facility - Indoor (per four (4) seats)	1	1	0.5
Recreational Facility - Outdoor (per playing field)	15	10	None
Recreational Facility - Outdoor Commercial	Larger of 1 per 4 seats or 15 per playing field	Larger of 1 per 4 seats or 10 per playing field	1 per 6 seats
Recreational Vehicle Sales – New and Used	2	2	1
Recycling Center - Large above 2,000 gfa	None	None	None
Recycling Center - Small 2,000 gfa or less	None	None	None
Research Lab	2.5	2	2
Restaurant	4	3	None
Restaurant – Take-Out	4	3	None
Salon/Spa	4	4	2
School - Secondary (per Classroom)	7	5	2
School - Primary (per Classroom)	1.5	1.5	1.5

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
School - Trade/Professional	5	3	1
School, - Post-Secondary	2	2	2
Solid Waste Facility - Incinerator, Landfill, Transfer Station	None	None	None
Tailor Shop	2	1	None
Vehicle Salvage	None	None	None
Warehouse	0.5	0.35	0.35
Warehouse - Self Storage Facility	1 per resident manager, plus 1 per 100 leasable storage spaces	1 per resident manager, plus 1 per 100 leasable storage spaces	1 per resident manager, plus 1 per 100 leasable storage spaces
Warehouse - Retail	3.3	2.5	2.5
Wholesale Sales	1.3	1	1
Worship, Place of (per four (4) seats)	1	1	1

Sec. 8.1.9 Maximum Parking Spaces

The total number of parking spaces provided in all parking districts shall not be more than 125% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in **Table 8.1.8-1**. In no case shall the maximum number of required spaces be less than one (1) per unit of measurement (beds, units, 1000 gross sqft, etc.) for the use.

(a) **Exemptions:** The following shall reduce the maximum number of allowable spaces required by this section:

1. Structured Parking: Spaces provided within the footprint of a structure containing one or more other uses, including rooftop, at-grade, or below grade spaces shall not be counted towards the maximum, provided the floor area dedicated to parking is less than 50% of the total gross floor area of the structure;

2. Public Parking: Spaces provided and available for use by the public shall not be counted towards the maximum;

3. Carpool, Vanpool, and Car-Share Parking: Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program shall not be counted towards the maximum. Such spaces shall be reserved for such use and be signed or marked accordingly; and,

4. Alternative Fueled Vehicle Parking. Parking spaces dedicated for vehicles operating on primarily alternative fuels including but not limited to electric, natural gas, and hydrogen shall not be counted towards the maximum. Such spaces shall be reserved

for such use and be signed and/or the space painted with the words “Alternative Fueled Vehicles Only.”

5. Waiver of Maximum Parking Limitations. Parking in excess of the maximum parking limitation of this section may be waived by the DRB pursuant to the provisions of **Sec 8.1.15** with the following additional requirements:

- A. The applicant requesting the waiver shall also provide a peak demand parking study for two similar uses in the area; and,
- B. The following additional review criteria shall be addressed regarding how:
 - (i) The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;
 - (ii) The proposed development demonstrates that its design and intended uses will continue to support high levels of existing or planned transit and pedestrian activity; and,
 - (iii) The site plan indicates where additional parking can be redeveloped to a more intensive transit supportive use in the future.

Sec. 8.1.10 Off-Street Loading Requirements.

Outside of the Downtown Parking District, every structure constructed after the effective date of this ordinance and used for non-residential use shall provide sufficient space for the unloading and loading of vehicles. The adequacy of any proposed loading areas shall be considered as part of the site plan and traffic circulation review. Such loading areas shall have access to a public alley or a public street in such a way to minimize conflicts with the circulation of other vehicles and pedestrians, be screened from public view, and provide safe and effective access to the city’s street network.

Sec. 8.1.11 Parking Dimensional Requirements

The following standards in **Table 8.1.11-1** below shall be used to ensure safe, adequate, and convenient access and circulation. These standards shall be adhered to except in situations where a lesser standard is deemed necessary by the DRB due to site topography, location of existing or proposed structures, lot configuration, and/or the need to preserve existing trees and mature vegetation.

Table 8.1.11-1 Minimum Parking Dimensions

Angle of Parking Space	Width of Space	Length of Space	Width of Angled Space	Length of Angled Space	Minimum Back-Up Length
Standard Cars					
Parallel Parking	9.0'	22.0'	-	-	-
45° Angle	9.0'	20.0'	12.7'	20.5'	15.0'
60° Angle	9.0'	20.0'	10.4'	21.8'	18.0'
90° Angle	9.0'	20.0'	9.0'	20.0'	24.0'
Aisle width (one-way)	10'				
Aisle width (two-way)	20'				
Compact Cars					
Parallel Parking	8.0'	20.0'	-	-	-
45° Angle	8.0'	18.0'	11.2'	18.3'	13.0'
60° Angle	8.0'	18.0'	9.2'	19.8'	15.0'
90° Angle	8.0'	18.0'	8.0'	18.0'	20.0'

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to **Sec. 8.1.15** approved by the DRB.
3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce the required parking for any other use utilizing the property on which it is located unless such shared use is approved by the development review board. The right to use the off-site parking must

be guaranteed for the duration of the use as evidenced by a deed, lease, easement, or similar written instrument as may be approved by the City Attorney.

(b) Downtown Street Level Setback:

In order to maintain an active streetscape, any off-street parking occupying street level frontage in the Downtown Parking District shall be setback from the front property line in order to reserve street-level frontage for pedestrian-oriented uses.

(c) Front Yard Parking Restricted:

Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than eighteen feet (18') or less in width. The provisions of this subsection shall not be applicable during such times as when the winter parking ban pursuant to **Section 20-56 of the Code of Ordinances** is in effect. Where parking is provided outside the front yard setback, but either partially or entirely between the principle structure and the street, such parking shall be screened to the extent practicable from view from the public street.

(d) Shared Parking in Neighborhood Parking Districts:

In the event that a mix of uses occupy a single structure or parcel of land located in a Neighborhood Parking District, the total requirement for off-street parking shall be the sum for all individual uses unless it can be shown that the peak parking demands are offset and spaces can be shared (for example: retail and residential, or theater and office uses). In such cases the parking required must at least meet the requirements for Shared Use Districts.

(e) Single Story Structures in Shared Use Districts:

In the event that a single story structure is proposed to be located in a Shared Use District, the total requirements for off-street parking shall be calculated as for a Neighborhood Parking District. This provision does not apply to single story structures existing and occupied as of the effective date of this ordinance.

(f) Joint Use of Facilities:

The required parking for two (2) or more uses, structures, or parcels may be combined in a single parking facility if it can be shown by the applicant to the satisfaction of the DRB that the use of the joint facility does not materially overlap with other dedicated parking in such facility, and provided that the proposed use is evidenced by a irrevocable deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use acceptable to the city attorney.

(g) Availability of Facilities:

Required parking pursuant to this Article shall be available for parking of operable passenger vehicles used by residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials. The distribution of parking spaces for any and all individual uses will be required to be arranged in such a way as to ensure optimal access and use by the patrons of such use(s).

(h) Compact Car Parking:

Compact parking spaces may be used in parking structures or lots. Up to fifteen (15%) percent of the total parking spaces in a parking garage may be designated for compact cars. Such spaces shall be signed or the space painted with the words “Compact Car Only.”

Sec. 8.1.13 Parking for Disabled Persons

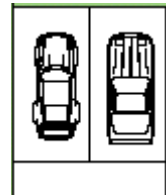
Parking spaces for disabled persons shall comply with current the Americans with Disabilities Act guidelines and shall be at least eight feet (8') wide with an adjacent access aisle at least five feet (5') wide. Parking access aisles shall be part of an accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Painting of the paved area for the dedicated parking spaces alone shall not be sufficient as the sole means of identifying these spaces.

Sec. 8.1.14 Stacked and Tandem Parking Restrictions

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

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

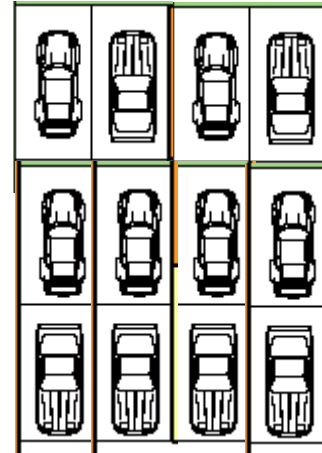
- (b) Tandem Parking may be allowed for single family detached dwelling units, accessory apartments, duplex dwelling units, and dedicated employee-only parking signed as such. In no case shall more than 4 parking spaces (2 pairs) in total be provided in tandem on any one lot.



Normal



Tandem



Stacked

Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to [Sec. 5.4.8](#) and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of [Sec. 3.2.7 \(a\)7](#).

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of [Sec. 8.1.8](#) are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

- (a) A calculation of the parking spaces required pursuant to [Table 8.1.8-1](#).
- (b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.
- (c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:

1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;
 2. Anticipated parking demand by time of day and/or demand by use;
 3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;
 4. Availability and frequency of public transit service within a distance of 800-feet.
 5. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,
 6. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.
- (d) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:
1. A telecommuting program;
 2. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;
 3. Implementation of a car-share program;
 4. Development or use of a system using offsite parking and/or shuttles; and,
 5. Implementation of public transit subscriptions for employees.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

PART 2: BICYCLE PARKING

Sec. 8.2.1 Intent

It is the intent of this subpart to:

- (a) Provide bicycle access to employment, commercial destinations, and other transportation alternatives;
- (b) Provide safe and adequate bicycle parking facilities that:
 1. Meet the demands of the use of the property;
 2. Reduce hazards to pedestrians;
 3. Enhance the visual quality of the city;
 4. Reduce the adverse impacts associated with the bicycle parking on parking meters, street trees, etc; and,

5. Encourage the use of bicycles as an alternative to motor vehicle transportation, thereby reducing traffic congestion, influencing modal split, and increasing the safety and welfare of residents.

Sec. 8.2.2 Provisions

Bicycle parking requirements shall apply to new development, building expansions, or occupancy changes requiring a zoning permit where automobile parking is required pursuant to **Part 1** of this Article.

Sec. 8.2.3 Existing Structures

Any expansion or change of use proposed for an existing structure where four (4) bicycle spaces or less would be required shall be exempt from providing those spaces.

Sec. 8.2.4 Joint Use of Bicycle Parking Facilities

Required bicycle parking spaces for two (2) or more adjacent uses or structures may be satisfied by the same parking facilities used jointly, provided that such right of joint use and maintenance is evidenced by a deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use, and that the facilities are within 200 feet of the building or parcel housing the use.

Sec. 8.2.5 Bicycle Parking Requirements

Bicycle parking for all uses and structures in all Parking Districts shall be provided in accordance with **Table 8.2.5-1**.

- (a) Where no requirement is designated, and the use is not comparable to any of the listed uses, bicycle parking requirements shall be determined by the DRB upon recommendation of the city's bicycle and pedestrian planner based upon the capacity of the facility and its associated uses.
- (b) When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.
- (c) Where bicycle parking is required, the minimum number of bicycle parking spaces provided at each site shall be two (2) and the maximum shall be fifty (50), not including long term parking.

Table 8.2.5-1 Bicycle Parking Requirements

	Specific Use	Long Term Spaces	Short Term Spaces
	Per Square Feet of Gross Building Area, except as noted otherwise		
RESIDENTIAL			
Household Living	Multi unit	1 per 4 units	1 per 10 units
Group living	Elderly housing	1 per 10 units	1 per 10 units
	Fraternity, sorority, & dormitory	1 per 4 residents	1 per 8 residents
Temporary lodging	Hotel, motel, bed & breakfast, boarding house, campground	1 per 20 rooms/sites	2 per 20 rooms/sites
COMMERCIAL			
Office		1 per 5,000 sq. ft.	1 per 10,000 sq. ft.
	Medical, dental	1 per 5,000 sq. ft.	1 per 8,000 sq. ft.
Retail sales and service		1 per 20,000 sq. ft.	1 per 5,000 sq. ft.
	Auto, boat, motorcycle related sales, service and retail	1 per 30,000 sq. ft.	1 per 10,000 sq. ft.
	Restaurants, bars, taverns	1 per 10 employees	6% of occupancy load
INDUSTRIAL			
Industrial, manufacturing, production, and warehousing		1 per 20,000 sq. ft.	1 per 50,000 sq. ft.
PERMITTED PUBLIC/INSTITUTIONAL USES			
Colleges or Universities	Excluding dormitories	1 per 20,000 sq. ft.	3 per 5,000 sq. ft.
Daycare, except home		1 per 20,000 sq. ft.	1 per 10,000 sq. ft.
Schools	Grades 2-5	1 per 20,000 sq. ft.	2 per classroom
	Grades 6-12	1 per 20,000 sq. ft.	4 per classroom
Community Services	Museums, aquariums, libraries, community centers, municipal buildings, post office	1 per 20,000 sq. ft.	3 per 5,000 sq. ft.
Medical Center	Excluding medical or dental offices	1 per 10,000 sq. ft.	1 per 20,000 sq. ft.
Worship, places of		1 per 20,000 sq. ft.	1 per 40 seats

Recreation, government owned	Parks	Per DRB review	1 per 10 daily users
OTHER			
Terminal	Taxi/Bus/Passenger/ Ferry	As determined during Site Plan Review by DRB	As determined during Site Plan Review by DRB
Parking	parking lot, garage; public or private	4, or 5% of automobile spaces, whichever is greater	None

Sec. 8.2.6 Limitations

- (a) No bicycle parking spaces required by this standard shall be rented or leased to employees or residents residing at the location at which bicycle parking is required; however, a refundable deposit fee may be charged. This does not preclude a bike parking rental business.
- (b) Providing bicycle racks on the public right of way must be approved by the department of public works.

Sec. 8.2.7 Location & Design Standards

- (a) All bicycle parking facilities shall be installed in accordance with the department of public works “Bicycle Parking Guidelines.”
- (b) Bicycle parking or a sign leading thereto shall be visible from the main entrance of the structure or facility.
- (c) Bicycle parking shall be visible, well lit, and as convenient to cyclists as auto parking.
- (d) Bicycle parking facilities shall provide sufficient security from theft and damage. They shall be securely anchored to the ground, shall allow the bicycle wheel and frame to be locked to the facility, and shall be in a location with sufficient lighting and visibility.
- (e) Bicycle parking facilities shall be visually compatible and of a design standard consistent with their environment and the development standards of **Art 6**.
- (f) Required bicycle parking spaces shall be of a sufficient dimension to accommodate a full-sized bicycle, including space for access and maneuvering.
- (g) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles.
- (h) The surfacing of bicycle parking facilities shall be designed and maintained to be clear of mud and snow.
- (i) Bicycle parking racks and lockers shall be anchored securely.
- (j) Existing bicycle parking may be used to satisfy the requirements of this section provided the rack design is consistent with the department of public works “Bicycle Parking Guidelines.”

Sec. 8.2.8 Long Term Bicycle Parking

- (a) Long term bicycle parking shall:
1. Protect bicycles from the weather;
 2. Provide secure storage that prevents theft of the bicycle and accessories; and,
 3. Be located in a well lit area.
- (b) Long Term bicycle parking requirements can be met in any of the following ways:
1. A bicycle storage room;
 2. Bicycle lockers, pods, or lids;
 3. Lockable bicycle enclosure; or
 4. By certifying to the city's bicycle and pedestrian planner that employees may store their bicycles within their workspace.
- (c) When long term parking is required, showers and changing facilities for employees shall be required in accordance with **Table 8.2.8-1**, except for parking garages, parking lots, and residential units, which are exempt from the requirements of this section. Shower and changing facilities shall be provided onsite or through an agreement for offsite use.

Table 8.2.8-1 Shower and Changing Facilities	
Required Long Term Spaces	Minimum Number of Required Shower and Changing Facilities
1-4	1
5-10	2
11-20	3
21+	4 plus one for each additional 15 Long Term spaces or part thereof

Sec. 8.2.9 Waivers from Bicycle Parking Requirements

- (a) Requests for reductions to bicycle parking requirements shall be made and documented separately from requests made for reductions in the automobile parking requirements.
- (b) The requirements of **Sec. 8.2.5** may be reduced upon approval of the DRB based upon recommendation of the city's bicycle and pedestrian planner to the extent that the applicant can demonstrate the regulation is unnecessarily stringent due to:
1. The characteristics of the use, structure, or facility makes the use of bicycles unlikely;
 2. The characteristics of the site or area preclude the installation of bicycle parking; and/or,
 3. Results from a documented survey of bicycle parking use in similar situations.

- (c) For reductions granted due to the characteristics of a site or area, applicants must mitigate the loss of bicycle parking through contribution into the capital fund. The amount shall be equal to the cost required for installation of required bicycle parking.

PART 3: INSTITUTIONAL PARKING PLANS

Sec. 8.3.1 Intent

It is the intent of this part to:

- a. Ensure that city streets in nearby neighborhoods are not unfairly burdened by parking demands from post-secondary educational or medical institutions; and,
- b. Recognize the unique ability of institutions to manage their own parking resources in a comprehensive and creative way.

Sec. 8.3.2 Applicability

Each post-secondary educational or medical institution within the Institutional district shall provide off-street parking and loading facilities consistent with its needs according to the standards specified in this Article.

In order to accomplish the intent of this Part, each such institution, either individually or collectively, shall prepare, maintain, and monitor a comprehensive parking management plan for their respective campus or institution.

Sec. 8.3.3 Institutional Parking Management Plans

In addition to the requirements of **Sec. 8.1.15** above, an Institutional Parking Management Plan shall include the following:

- (a) Information specifying the proposed number of students (full-time, part-time, commuter, on-campus, off-campus, and continuing education), faculty and staff (full-time and part-time), patients and visitors being served by the institution and anticipated over the ensuing five-year period.
- (b) An analysis of the anticipated parking demand by user group, time of day and/or demand by use;
- (c) Information specifying the number and composition of the institution's vehicle fleet, where these vehicles are regularly kept, and designated "service vehicle-only" parking;
- (d) Programs, policies, or incentives used to reduce or manage the demand for parking which may include but are not limited to:
 - 1. Policies which restrict and/or prohibit the bringing of vehicles to the institution for various users or groups of users;

2. Programs to encourage the use of public transit, walking and bicycling;
 3. Implementation of a parking permit system to allocate parking throughout the system; and,
- (e) Implementation of a monitoring, compliance and enforcement system to measure and ensure compliance with the plan.

Sec. 8.3.4 Review and Approval of Institutional Parking Management Plans

Such a plan shall require review and approval by the DRB, after consultation with the planning commission, and after a public hearing. In order to approve a proposed Institutional Parking Plan, the DRB shall find:

- a. the proposed Institutional Parking Plan adequately serves existing and proposed development by the institution(s);
- b. the proposed Institutional Parking Plan more effectively meets the intent of this Article and the goals of the municipal development plan than would strict adherence to the underlying requirements of this Article.

Such a plan, if approved by the DRB, shall be applicable for a period not to exceed five (5) years, and may be amended as necessary pursuant to the requirements of this Part. The institution shall provide a report annually to the administrative officer regarding the implementation and performance of the approved plan.

Sec. 8.3.5 Review and Approval of Applications for Future Development

In reviewing any application for development from a post-secondary educational or medical institution within the Institutional district, the DRB shall find that the proposal is consistent with an approved Institutional Parking Plan.

Any development proposed by a post-secondary educational or medical institution within the Institutional Campus district that is found not to be consistent with an approved Institutional Parking Plan shall only be approved pursuant to the underlying parking requirements of **Parts 1 and 2** of this Article.

**Burlington Planning Commission
Ordinance Committee**

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

*Bruce Baker
Lee Buffinton
Andy Montroll
Jonathan Stevens
Steven Offenhardt*



**Burlington Planning Commission
Ordinance Committee
Meeting Notes**

Thursday, August 7, 2014 - 12:00 pm

PC Present: B. Baker, L. Buffinton, P. Hammerslough, J. Stevens, A. Montroll,
Staff: D. White, K. Lerner
Others: J. Dextrader

A discussion was held concerning parking dimensional standards. Information and copy of current CDO Article 8 Parking distributed.

- A. Montroll moved to have staff review current parking dimensional requirements and determine ways to make it more efficient. Consideration should be given to future vehicle sizes. To be provided for the next Committee meeting.

L. Buffinton: Second

Vote: 5-0.

J. Stevens raised issue of concern regarding short term rentals such as found on Air B&B website that are not clearly identified in the CDO.

After some discussion, J. Stevens moved for staff to develop standards that can be applied to these situations with consideration of goals and policies. To be provided for the next Committee meeting.

Second: A. Montroll,

Vote: 4-0 (L. Buffinton left prior to vote on this motion)

Meeting adjourned 1:20 PM