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

Burlington
Planning and Zoning

PUBLIC HEARING NOTICE
Burlington Comprehensive Development Ordinance
ZA-19-10 Inclusionary Zoning

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, June 25, 2019 beginning at 6:45pm** in Conference Room 12, City Hall, 149 Church Street, Burlington, VT.

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-19-10:** The purpose of this amendment is to comprehensively update the City's Inclusionary Zoning standards in a way that is consistent with the recommendations forwarded by the City Council as a result of the City's two-year Inclusionary Zoning review. These amendments include adjustments to the offsets provided for the development of inclusionary units, promoting greater inclusion across residential areas of the city, and addressing a number of administrative elements.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-19-10:** The proposed amendment applies to all residential and mixed-use areas of the city.

List of section headings affected:

- **ZA-19-10:** The proposed amendment adds *Sec. 3.3.3 (c) Inclusionary Housing Exemption*, and modifies *Sec 3.3.3 (d) Affordable Housing Waivers*; deletes *Sec 4.4.5 (d) 7. A Inclusionary Housing Requirement*; adds *Sec 8.1.8 (c)* and modifies *Table 8.1.8-1 Minimum Off-Street Parking Requirements*; and makes significant modifications throughout Article 9- Inclusionary Zoning, including within Sections: *9.1.4 Miscellaneous Definitions, 9.1.5 Applicability, 9.1.6 Exemptions, 9.1.9 Percentage of Inclusionary Units, 9.1.10 Income Eligibility, 9.1.11 Calculating Rents and Selling Prices, 9.1.12 Additional Density and Other Development Allowances, 9.1.13 Off-Site Option, 9.1.14 General Requirements for Inclusionary Units, 9.1.16 Continued Affordability Requirements,* and *9.1.20 Administration*.

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at https://www.burlingtonvt.gov/PZ/CDO/Amendments.

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Burlington Planning Commission

Tuesday, June 25, 2019, 6:30 P.M.

City Hall, Conference Room 12, 149 Church Street

AGENDA- AMENDED

I. Agenda

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

III. Chair Report

IV. Director's Report

V. Public Hearing: ZA-19-10 Inclusionary Zoning Updates *(Time Certain 6:45pm)*

The Planning Commission will hold a public hearing on a proposed amendment to the *Burlington Comprehensive Development Ordinance* regarding Inclusionary Zoning policies and related sections of the Ordinance. Information related to this item is included in the agenda packet on pages 2-22.

Staff Recommendation: The Commission is recommended to consider public input and its Ordinance Committee recommendation, and make any additional modifications to the ordinance. The Commission is recommended to approve the municipal bylaw amendment report and forward the proposed amendment to City Council.

VI. Committee Reports

VII. Commissioner Items

a. Next meeting is July 9, 2019 at 6:30pm in Conference Room 12

VIII. Minutes & Communications

a. Minutes from the May 28, 2019 meeting are enclosed in the agenda packet on pages 23-26.
b. Public Hearing Notice RE: Colchester Growth Center Designation on page 27

IX. Adjourn

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Burlington Comprehensive Development Ordinance
ZA-19-10 Inclusionary Zoning

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Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-19-10:** The purpose of this amendment is to comprehensively update the City's Inclusionary Zoning standards in a way that is consistent with the recommendations forwarded by the City Council as a result of the City's two-year Inclusionary Zoning review. These amendments include adjustments to the offsets provided for the development of inclusionary units, promoting greater inclusion across residential areas of the city, and addressing a number of administrative elements.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-19-10:** The proposed amendment applies to all residential and mixed-use areas of the city.

List of section headings affected:

- **ZA-19-10:** The proposed amendment adds *Sec. 3.3.3 (c) Inclusionary Housing Exemption*, and modifies *Sec 3.3.3 (d) Affordable Housing Waivers*; deletes *Sec 4.4.5 (d) 7. A Inclusionary Housing Requirement*; adds *Sec 8.1.8 (c)* and modifies *Table 8.1.8-1 Minimum Off-Street Parking Requirements*; and makes significant modifications throughout Article 9- Inclusionary Zoning, including within Sections: *9.1.4 Miscellaneous Definitions, 9.1.5 Applicability, 9.1.6 Exemptions, 9.1.9 Percentage of Inclusionary Units, 9.1.10 Income Eligibility, 9.1.11 Calculating Rents and Selling Prices, 9.1.12 Additional Density and Other Development Allowances, 9.1.13 Off-Site Option, 9.1.14 General Requirements for Inclusionary Units, 9.1.16 Continued Affordability Requirements,* and *9.1.20 Administration*.

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David White, FAICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Shaleigh Draper, Zoning Clerk
Layne Darfler, Planning Technician

TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: June 3, 2019
RE: CDO Amendment ZA-19-10: Inclusionary Zoning

Overview & Background

Significant process precedes this amendment. The 2015 *Housing Action Plan* identified the need to review the inclusionary zoning standards. A private consultant provided an initial report evaluating the inclusionary zoning standards in 2017, which contained some initial recommendations. An inclusionary zoning working group was then established to build on the consultant's report with a focus on greater inclusion with consideration given to geographic distinctions within the city (i.e. more versus less inclusive areas). Finally, in 2018, the joint committee (Ordinance and CDNR) was established to specifically address each of the recommendations of the inclusionary zoning working group. The City Council adopted the final report of the joint committee in December 2018, and tasked the Planning Commission with amending the inclusionary zoning language in the *CDO* to incorporate the recommendations of the joint committee. *Full documents associated with each of these steps can be found online at* www.burlingtonvt.gov/cedo/iz

The Planning Commission has completed a discussion of these recommendations, and the necessary amendments are attached. Most significantly, this amendment revises the standards for inclusionary housing in Article 9 and related provisions in other articles of the *Comprehensive Development Ordinance* (CDO). The amendment adjusts the sale price of inclusionary units from 75% of Area Median Income (AMI) to 70% of AMI and replaces square footage provisions for inclusionary units with a percentage (90%) relative to the average size of market rate units. The amendment also facilitates utilization of off-site and payment in lieu options for inclusionary units in more inclusive areas of the city while limiting their utilization in less inclusive areas of the city. Furthermore, the amendment specifies by-right development "bonuses" associated with inclusionary housing and eliminates impact fee and minimum off-street parking requirements.

The Commission offers the following additions and exceptions to the recommendations referred by the joint committee:

- Recommendations 4 and 4.1- Article 4 and 9 Bonuses by right. Included Article 4 bonuses by right. Added language to clarify that the application of Article 6 and 14 standards shall not have the effect of reducing the permitted density, intensity or height. Also recommends that the additional height permitted is increased from 10' to 12' to accommodate realities of design and development for a floor of housing, and that the additional height must be set back 10' from the front of building.
- Recommendation 4.2- Eliminate parking requirement for IZ units. Alternatively, the Commission recommends the overall parking requirement for projects including IZ units on-site may be reduced by the percentage of IZ units provided, and included more explicit language regarding parking as an amenity to which IZ tenants shall have equal access.
- Recommendation 12- Applicability to Institutional Student Housing off-campus. The Commission recognizes the complexity, and importance, of an inclusionary provision for student housing, and feels that this issue needs to be studied in greater detail

before incorporating standards in this ordinance. Therefore, this recommendation has not been addressed by this proposed amendment.

- Modify applicability provisions to enable Article 9 requirements and development bonuses to apply to projects of fewer than 5 units, and also when adding a new unit to any existing housing unit(s), as “opt-in” when not otherwise required.
- The Commission reviewed and incorporated a number of additional administrative amendments proposed by the Housing Trust Fund manager.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement

The purpose of this amendment is to make corrections to the *Comprehensive Development Ordinance* consistent with the list of recommendations forwarded to the Planning Commission by the City Council’s joint Ordinance & CDNR Committee.

- Recommendation 1- *Reduce payment for in lieu for smaller projects.* See changes to Sec. 9.1.13.
- Recommendation 2- *Replace numerical standards for minimum IZ unit requirements with a 90% of market rate unit size standard.* See changes to Sec. 9.1.14.
- Recommendation 3- *Enable a designee of the Housing Trust Fund manager.* See changes to Sec. 9.1.20.
- Recommendations 4 & 4.1- *Make density and dimensional bonuses by right.* See changes to Sec. 9.1.12 and 4.4.5.
- Recommendations 4.2 & 4.3- *Eliminate impact fee requirements for IZ units and reduce minimum off-street parking requirements.* See changes to Sec. 3.3.3 & 8.1.8.
- Recommendations 5 & 5.1- *Allow for payment in lieu option based on HUD AMI and restructure payments based on project size.* See changes to Sec. 9.1.13.
- Recommendations 6 & 6.1- *Allow for off-site option by right based on HUD AMI and remove 1.5-unit multiplier.* See changes to Sec. 9.1.13.
- Recommendation 7- *Adjust sale price for owner-occupied IZ units from 75% AMI to 70% AMI.* See changes to Sec. 9.1.11.
- Recommendations 10 & 10.1- *Maintain the current IZ target rent price of 65% AMI, and maintain the current income eligibility level of up to 100% AMI.* See Sec. 9.1.11 and 9.1.10.

Further, this amendment incorporates a number of changes to address procedural and administrative issues forward by City Staff regarding this section of the *CDO*:

- *Required number of units – rounding.* See Sec. 9.1.9.
- *Distribution of units within a building/project-* See Sec. 9.1.14.
- *Unit sales (preference)-* See Sec. 9.1.14.
- *Unit marketing (initial or ongoing; first or every resale) and rent changes-* See Sec. 9.1.16.
- *Rents and Section 8 vouchers-* See Sec. 9.1.10 & 9.1.11.
- *Housing Trust Fund manager involvement in prices for resale of units-* See Sec. 9.1.16.

Proposed Amendments

To achieve the goals identified above, the proposed amendment affects the sections of the *Burlington Comprehensive Development Ordinance* as outlined in the following pages.

[BEGIN TEXT AMENDMENTS]
Draft v5.0_updated for Planning Commission public hearing on 6-25-2019
Deleted language is ~~crossed out~~, and new language is underlined in red.

ARTICLE 3. APPLICATIONS, PERMITS, AND PROJECT REVIEWS

PART 3: IMPACT FEES

Sec. 3.3.1 Purpose
As written.

Sec. 3.3.2 Applicability
As written.

Sec. 3.3.3 Exemptions and Waivers

(a) Exemptions:
The following types of development are exempt from this Part:

1. additions to existing dwelling units, provided such additions are for residential purposes;
2. alterations to an existing use provided that such alteration occurs entirely within an existing building and within the same square footage;
3. land development which does not result in new building square footage (e.g. parking lots, facade renovations, signs, etc.);
4. additions to existing buildings for which the sole purpose is to provide additional means of egress (e.g. stair towers, elevators, etc).

(b) School Impact Fee Exemption:
That portion of impact fees attributable to school impacts shall not be required for senior citizen housing projects or for that portion of a project where certain units are reserved specifically for the elderly. Any project, or portion thereof, which meets either state or federal guidelines for elderly housing, shall be deemed a senior citizen housing project and eligible for a full or partial waiver of school impact fees.

(c) Inclusionary Housing Exemption:
Inclusionary housing units per Article 9: Part 1 shall be exempt from this Part.

(~~c~~)(d) Affordable Housing Waivers:
Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3) below ~~are eligible~~ qualifies for a waiver of impact fees for that portion of the project containing affordable housing units in excess of the minimum inclusionary housing requirements of Article 9. The terms, rules, and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9). For purposes of determining median income, the income levels specified in Article 9 of this Ordinance, ~~or the most recent amendment thereto,~~ shall be applicable.

1. 25% Waiver of Fees: Twenty-five percent (25%) of the fees will be waived for ~~any~~ qualifying units in a project that initially sells for a price that is affordable for households below 90% of median income or that initially rents for a three-year

period for a price (including utilities) that is affordable for households below 75% of median income.

2. <u>50% Waiver of Fees</u>: Fifty percent (50%) of the fees will be waived for ~~that portion of a residential~~ <u>qualifying units in a</u> project that meet~~s~~ the dual test of initial affordability and continuing affordability. For the purposes of this section, "initial affordability" would be defined as a unit that sells for a price that is affordable for households earning less than 75% of median income or that rents for a price (including utilities) that is affordable for households earning below 65% of median. "Continuing affordability" would be defined as affordability that lasts for a period of 99 years.

3. <u>100% Waiver of Fees</u>: One hundred percent (100%) of the fees will be waived for that ~~portion of a residential~~ <u>qualifying units in a</u> project that initially sell~~s~~ or rent~~s~~ for a price that is affordable for households earning less than 50% of median income and that remain~~s~~ continually affordable as defined above.

(~~d~~)<u>(e)</u>Community Garden Waivers:

As written.

ARTICLE 4. ZONING MAPS AND DISTRICTS
<u>PART 4: BASE ZONING DISTRICT REGULATIONS</u>

<u>Sec. 4.1.1 Intent – Sec 4.4.4 Institutional District</u>
As written.

<u>Sec. 4.4.5 Residential Districts</u>
(a) – (c) As written.

(d) District Specific Regulations:
1 - 6 As written.

7. <u>Residential Development Bonuses</u>

The following exceptions to maximum allowable residential density and dimensional standards in Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

~~A. Inclusionary Housing Requirement.~~

~~Inclusionary Housing units shall be provided, with applicable additional lot coverage and density allowances, in accordance with the provisions of Article 9, Part 1. A maximum of an additional 10-feet of building height may be permitted for an additional 5% inclusionary housing units provided in excess of the requirements of Article 9, Part 1. The total gross floor area dedicated to the additional inclusionary housing shall be equivalent to the gross floor area resulting from the additional allowance.~~

~~Additional lot coverage and residential densities allowances shall not exceed the following:~~

~~*Table 4.4.5-4: Inclusionary Housing Allowances*~~

~~**District**~~	~~**Maximum Coverage**~~	~~**Maximum Density**~~
~~**RL/RL-W**~~	~~44%~~	~~8.75 du/ac~~
~~**RM**~~	~~48%~~	~~25 du/ac~~
~~**RM-W**~~	~~72%~~	~~25 du/ac~~
~~**RH**~~	~~92%~~	~~46 du/ac~~

B. – E. As written (except for re-lettered following deletion of A).

ARTICLE 8. PARKING

PART 1: GENERAL REQUIREMENTS

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.

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

(c) The minimum off-street parking requirement for a development with inclusionary housing units provided on site shall be reduced by the percentage of inclusionary units required by Article 9.

(Example: A 100-unit residential development with a requirement of 15% inclusionary units shall provide minimum off-street parking based on 85 dwelling units.)

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	**Shared Use Districts**	**Downtown Districts**
RESIDENTIAL USES[1]	**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
1. Adjusted for development with inclusionary housing units per Sec. 8.1.8 (c).			
RESIDENTIAL USES – SPECIAL[1]	**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

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	**Shared Use Districts**	**Downtown Districts**
Dormitory (per two (2) beds)	1	1	1
Emergency Shelter	0	0	0
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**		
As written.			

Sec. 8.1.9 – 8.1.5 As written.

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

(a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;

(c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,

(d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

Sec. 9.1.2 Authority

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

Sec. 9.1.3 Inclusionary Units, General Description

Inclusionary units shall include those units in a covered project, which are regulated in terms of:

(a) Selling price or rent level;

(b) Marketing and initial occupancy; and,

(c) Continued requirements pertaining to re-sale, rent or carrying cost increases, as specified in this article.

Sec. 9.1.4 Miscellaneous Definitions

~~**"Affordable housing" or**~~ **"Affordable"** shall refer to a housing in which the ~~that is owned or rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income or 80 percent of the standard metropolitan statistical area (MSA) income, as defined by the US Department of Housing and Urban Development, and the~~ total cost of the housing, including principal, interest taxes and insurance and condominium association fees, if owned housing, or the total cost of the housing, including rent, utilities and condominium association fees, if rental housing, is not more than thirty per cent (30%) of the household's gross annual income.

"Area Median Income" shall refer to the income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income consists of all households in the geographic area. The median is the middle value when all are arranged from highest to lowest. The median income that is current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under this article.

"Carrying charges" refer to costs associated with housing co-operatives.

"Certificate of Inclusionary Housing Compliance" shall refer to a certificate issued by the Manager of the Housing Trust Fund, which certificate provides legal assurance that a developer's obligations under this article are being satisfied.

"Housing Trust Fund (HTF)" shall refer to a special revenue account established by the Burlington City Council for purposes related to the creation, promotion, and preservation of long-term affordable housing for very low, low, or moderate income households.

- **"Housing Trust Fund Administrative Committee"** shall refer to an administrative committee consisting of the Manager of the Housing Trust Fund, an appointee of the City Council President and a designee of the Mayor responsible for the administration of the HTF by resolution of the City Council.
- **"Manager of the Housing Trust Fund" or "Manager"** shall be the Director of the City's Community and Economic Development Office, unless otherwise designated by the City Council by resolution.

~~**"Median Income"** shall refer to the income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income consists of all households in the geographic area. The median is the middle value when all are arranged from highest to lowest. The median income that is current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under this article.~~

Sec. 9.1.5 Applicability

This ordinance provision shall apply to any development of five or more residential units in a single structure ~~shall be subject to the standards of this article~~. Multiple developments or projects by the same applicant or responsible party within any consecutive twelve (12) month period that in the aggregate equal or exceed the above criteria shall be subject to these regulations.

Except as otherwise provided in this ordinance, these regulations shall apply in the instances specified below.

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

(b) Where units are created using the Adaptive Reuse or Residential Conversion criteria pursuant to the provisions of Art 4, Sec 4.4.5, this article shall be applicable when at least ten (10) or more dwelling units are created.

(c) An applicant may elect to be subject to the provisions of this article when developing fewer than 5 residential units in a single structure, or ~~whenAn applicant may elect to be subject to the provisions of this article if~~ any new units are added to existing units ~~for a total of 5 or more units~~.

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) On campus p~~P~~rojects that are located within an Institutional (I) zoning district that are ~~developed by an educational institution~~ for the exclusive residential use and occupancy by that institution's students;

(b) Those dwelling units in a covered project that are produced as "replacement units," pursuant to Article 9, Part 2 and which do not produce any net new units; and,

(c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

Notwithstanding any other provision of this ordinance, no certificate of occupancy for a project covered by this chapter shall be granted unless and until a Certificate of Inclusionary Housing Compliance has been issued by the Manager of the city's Housing Trust Fund.

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.9-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

Table 9.1.8-1 Inclusionary Zoning Percentages	
If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.9 and are subject to marketing and continued affordability provisions (Sec. 9.1.10 and Sec. 9.1.11) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%

Development in any Waterfront district (RM-W, RL-W, NAC-CR and FD5 west of Battery St) or 180% of median income and above in any other district	25%

Sec. 9.1.9 Percentage of Inclusionary Units

All covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units). When the calculation yields a fractional number of required inclusionary units, the number of units shall be rounded up to the nearest whole number if the fractional number is .50 or greater, and down to the nearest whole number if the fractional number is .49 or less.

(Example: a moderately-priced, multi-family housing development with no commercial space on a one-acre lot in the RH would be able to provide 46 units on-site. Of those, 46 x .15 (15%) = 6.9 (rounded up to 7) units of a total of 46 must be inclusionary units. If the applicant can only provide 20 of such moderately priced units on the site, 15% of the 20 units, i.e. 20 units x .15 = 3 units shall be Inclusionary units).

Sec. 9.1.10 Income Eligibility

Inclusionary Units required under this Article, shall be marketed for purchase or rent to households earning less than the median income for the Burlington Metropolitan Statistical Area, adjusted for household size, as specified in Sec 9.1.~~12~~ 11. The median income shall be determined on the basis of the data which is most recent to the time that the units are ready for occupancy. Inclusionary units occupied by households receiving Section 8 vouchers can be presumed to satisfy the income eligibility requirements of this section.

Sec. 9.1.11 Calculating Rents and Selling Prices

The following provision shall apply to the calculation of rents, selling prices and carrying charges, and to the relationship between unit size and household size:

(a) Inclusionary rental units shall be rented at a price which is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;

(b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy~~-five~~ percent (70~~5~~%) of median income adjusted for household size;

(c) In calculating the rents or carrying charges of inclusionary units, the following relationship between unit size and household size shall apply:

Unit Size	Household Size Equivalent
Efficiency Units:	1 Person Household;
One-Bedroom Units:	1.5 Person Household (average of one and two-person household incomes);
Two-Bedroom Units:	3 Person Household;
Three-Bedroom Units:	4.5 Person Household (average of four and five-person household incomes);
Four-Bedroom Units:	6 Person Household.

With respect to inclusionary units offered for sale, prices will be calculated on the basis of:

(d) An available fixed-rate thirty-year mortgage, consistent with a "blended rate" for Burlington banks plus the Vermont Housing Finance Agency as determined and declared semi-annually (January and July) by the Housing Trust Fund Manager. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate thirty-year mortgage at this lower rate from the Vermont Housing Finance Agency for all of the required inclusionary units;

(e) A down payment of no more than five percent (5%) of the purchase price;

(f) Annual property taxes; and

(g) Homeowner insurance, homeowner association fees or condo fees. Homeowner association fees shall be calculated in the same manner as the fees for the market units in the same development. The Housing Trust Fund Manager may modify the amount used in the calculation of condominium fees for the determination of the initial sale price limit for condominium inclusionary units. This modification shall be for the purposes of removing costs, such as plowing, maintenance, insurance, electricity, which are not included in the calculation of the sale price limit for single family inclusionary units.

Sec. 9.1.12 Additional Density and Other Development Allowances

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

(a) Any covered project shall be entitled by right to an increase in the maximum lot coverage, density/intensity, and, where applicable, height allowed for the ~~site~~ lot(s) on which the project is located. Applicable design standards in Articles 6 and 14 shall not be construed such that the by-right provisions of this section are reduced ~~following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site.~~ Calculations for these entitlements shall be based on the following table~~s~~:

Table 9.1.12-1 Density/Intensity Allowance Table				
Zoning District	**~~Additional Allowance~~**	**Maximum Units/Acre**	**FAR/Height**	**Maximum Lot Coverage**
RH	~~15%~~	46	~~n/a~~12~~0~~' height set back 10' along street facade [1]	92%
RM~~, RM-W~~	~~20%~~	25	~~n/a~~	48%
RM-W		25	12~~0~~' height set back 10' along street facade [1]	72%
RL, RL-W	~~25%~~	8.75	~~n/a~~	44%
FD6, FD5	~~n/a~~	n/a	0.5 FAR	100%
NMU, NAC, NAC-R, ~~NAC-CR, BST~~	~~n/a~~	n/a	0.5FAR+12~~0~~' height set back 10' along street facade	92%
NAC-CR		n/a	0.5FAR+12~~0~~' height set back 10' along street facade	72%

1. In the RH and RM-W residential zones an additional 12 feet of building height shall be allowed by right only for an additional 5% inclusionary housing units provided in excess of the minimum requirements of Sec. 9.1.8.

~~Table 9.1.12-2 Lot Coverage Allowance Table~~		
~~Zoning District~~	~~Additional Allowance~~	~~Maximum Lot Coverage~~
~~RH, NMU, NAC, NAC-R~~	~~15%~~	~~92%~~
~~RM-W, NAC-CR~~	~~20%~~	~~72%~~
~~RM~~	~~20%~~	~~48%~~
~~RL, RL-W~~	~~25%~~	~~44%~~

(b) ~~Other possible allowances for the provision of Inclusionary Units may include:~~

~~1. A waiver of up to 50% waiver of parking spaces as outlined in Article 8, Sec. 8.1.14,~~

~~2. A waiver of a portion of the impact fees associated with the Inclusionary units, pursuant to the Art. 3, Part 3 Impact Fee Administrative Regulations.~~

(c) (b)The allowances provided for herein may be declined at the option of the applicant;

(d) (c)With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space

(e) (d)All provisions of Sec. 9.1.8 through 9.1.11 shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.13 Off-Site and Payment In Lieu Options

(a) Off-Site Option

The developer of a covered project may construct inclusionary units on a lot (or lots) within the City of Burlington other than that on which the covered project is located as determined by HUD's Low- and Moderate-Income Summary Data as updated annually. The offsite option may be utilized by-right per the following scenario.

(1) Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data may utilize the off-site option by right.

(2) In areas where less than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data, utilization of the off-site option shall not be allowed. ~~The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project to comply constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:~~

In all cases, utilization of the off-site option shall be subject to the following conditions:

~~(a)~~ (1) The number of inclusionary units to be provided by the developer or by the developer's designee through off-site development shall be ~~no fewer than 1.5 times~~ equivalent to the number otherwise required by this Article;

~~(b)~~ (2) No additional development provisions as outlined in ~~this Article~~ Sec. 9.1.12 shall be granted to the development of units constructed off-site or to the project constructed on-site;

~~(c)~~ (3) Off-site inclusionary units must be located within the City of Burlington;

~~(d)~~ (4) All of the provisions of Sections 9.1.8 through 9.1.11 shall apply without exception to off-site inclusionary units under the provisions of this section;

~~(e)~~ (5) Waiver of provisions from the HTF with regard to minimum square footage and bedroom count relative to average size and bedroom count in a covered project is not permitted; and

~~(f) Should the City Council decide that a payment in lieu is acceptable in exchange for not providing the inclusionary units on or off of the site, the payment shall be $100,000, adjusted annually in accordance with the CPI, commencing January 1, 2007, per the number of units required in (a) above.~~

The off-site option shall not apply to a project located within a waterfront zoning district ~~or the NAC-CR district.~~ For the purposes of this Sec. 9.1.13, "site" shall consist of all adjacent ~~lands~~ lots which are the subject of a PUD or other single development application.

(b) Payment In-Lieu Option

The developer of a covered project may provide a payment in lieu to the Housing Trust Fund rather than construct inclusionary units on or offsite contingent on HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data. The payment in lieu option may be utilized by right under the two following scenarios

(1) Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option subject to the following standards:

i. The payment in lieu fee shall be $35,000 per dwelling unit for projects containing 5-16 dwelling units.

ii. The payment in lieu fee shall be $70,000 per dwelling unit for projects containing 17-49 dwelling units.

iii. The payment in lieu fee shall be $85,000 per dwelling unit for projects containing 50 or more dwelling units.

A marginal fee approach shall be used in payment of the in lieu fees.

(Example: A 17-unit project would pay a total of $140,000 {$35,000 for each of the first two inclusionary units and $70,000 for the third inclusionary unit}.)

(2) Covered projects located in a census block where less than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option per the following standards:

i. The payment in lieu fee shall be $35,000 per dwelling unit for projects containing 5-16 dwelling units.

ii. The payment in lieu fee shall not be allowed for projects containing 17 or more dwelling units.

The payment in lieu option shall not apply to a project located within a waterfront zoning district. For the purposes of this Sec. 9.1.13, “site” shall consist of all adjacent lots which are the subject of a PUD or other single development application.

Sec. 9.1.14 General Requirements for Inclusionary Units

All covered projects must comply with the requirements set forth below.

(a) In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project;

(b) Rental inclusionary units within a covered project may “float” (as opposed to designating specific units). Owner-occupied inclusionary units within a covered project must be specifically designated. In either case, inclusionary units may be grouped together or distributed throughout a covered project;

(c) Covered projects including both rental and owner-occupied dwelling units shall provide inclusionary units proportionate to the numbers of rental and owner-occupied dwelling units;

(d) Inclusionary units may differ from the market units in a covered project with regard to interior amenities and gross floor area, provided that:

1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project’s units; ~~and~~

2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project’s units; and,

3. Inclusionary units are afforded the same opportunity for parking that the market units are afforded.

(e) The gross floor area of the inclusionary units is not less than ninety percent (90%) of the average gross floor area of the market rate units within the project and of the same number of bedrooms. ~~the following minimum requirements, unless waived by the DRB using the following criteria:~~

~~1. All of the units being provided with a specific bedroom count are smaller than the standards outlined below;~~

~~2. More than the required number of inclusionary units are provided on site, not all shall be subject to bedroom mix and size requirement; or,~~

~~3. The units have an efficient floor plan (meaning that less than 5% of the square footage is devoted to circulation) and the bedroom size(s) is a minimum of 144sf or 12’x12.~~

~~One bedroom... 750 square feet~~

~~Two bedroom... 1,000 square feet~~

~~Three bedroom .... 1,100 square feet~~

~~Four bedroom .... 1,250 square feet~~

(f) Upon demonstration of inability to sell units to income eligible residents earning ~~75~~70% of the median income, the Manager of the HTF may extend income eligibility to allow priority in the sale of inclusionary units to households earning as much as ~~eighty percent (80%) of~~ median income, adjusted for household size and to households residing in Burlington at the time that these units are offered for sale ~~or lease~~ In extending income eligibility, ~~P~~priority ~~of the purchase of for-sale inclusionary units~~ shall be given to the lowest income household who qualifies for purchase, all else being equal;

(g) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency; and

(h) The final calculations for the number of inclusionary units shall be determined by the Manager prior to the issuance of the zoning permit. If there is any change in the project due to sales prices for these units that increases the number of inclusionary units required, such modifications shall be determined by the Manager and communicated to the administrative officer prior to the issuance of a certificate of occupancy for the covered project. The rental or sales price of the inclusionary units shall also be determined by the Manager prior to the issuance of a certificate of occupancy.

Sec. 9.1.15 Marketing of Inclusionary Units

Any applicant developing a covered project shall adhere to the following provisions with respect to the initial offering of inclusionary units for sale or rental:

(a) Trust Fund Notification.

The developer shall notify the Manager of the HTF, as defined in Section 18-400 of the Burlington Code of Ordinances, of the prospective availability of any inclusionary units at the time that the building permit is issued for such units in a covered project;

(b) Trust Fund Option.

The Manager of the HTF, in consultation with the other members of the HTF Administrative Committee, shall then have an exclusive option for one hundred twenty (120) days to purchase each inclusionary unit offered for sale from the developer unless waived or assigned;

(c) Trust Fund Waiver.

If the Manager of the HTF, in consultation with the other members of the HTF Administrative Committee or its designee, fails to exercise its option by failing to negotiate and sign a purchase and sale agreement for the inclusionary units, or if the Manager declares its intent not to exercise its option, the developer shall offer the units for purchase to households earning less than the median income referenced in Section 9.1.11. If requested by the developer, the Manager of the HTF shall execute documents that may be recorded in the Burlington Land Records to evidence said waiver of the option;

(d) Time of Closing.

Closing on inclusionary units purchased by the Housing Trust Fund Manager shall occur on or after the time of issuance of the certificate of occupancy. If the Housing Trust Fund Manager fails to close on these inclusionary units, the developer shall offer the unit for purchase or rent to households earning less than the median income referenced in Section 9.1.11, adjusted for household size;

(e) Transfer of Option.

On or before a purchase and sale agreement is executed between the developer and the manager, the Manager may assign the options specified in this section to any "designated housing agency," as defined by the provisions of Article 5 of Chapter 18 of the Burlington Code of Ordinances, in which event it shall notify the developer of such assignment and the agency to which it has assigned the option, which agency shall deal directly with the developer, and shall have all of the authority of the Manager, as provided under this section.

(f) Rentals.

In the case that the inclusionary units are being offered for rent rather than for sale, the Manager shall also be notified in the manner prescribed by subsection (a) regarding Trust Fund Notification, and the Manager and developer shall cooperate in order to rent such units to individuals meeting the income guidelines of Sec 9.1. 11(a).

Sec. 9.1.16 Continued Affordability Requirements

All covered projects shall comply with the following provisions to ensure continued affordability of inclusionary units provided under this article and units required to be continually affordable under Section 9.1.16.

(a) 99-Year Requirement.

All inclusionary units shall remain affordable for a period of no less than ninety-nine (99) years commencing from the date of initial occupancy of the units. Where a developer can establish that regulatory or other considerations make it impossible to provide the required inclusionary units if subject to the full extent of this requirement, the development review board may modify the duration of the period of continued affordability only to the extent necessary to render the development feasible;

(b) Deed Restrictions.

Provisions to ensure continued affordability of inclusionary units shall be embodied in legally binding agreements and/or deed restrictions satisfactory to the City Attorney's office, which shall be prepared by the developer, but which shall not be recorded or filed until reviewed and approved by the Housing Trust Fund Manager with such modifications as it may deem necessary to carry out the purpose of this article. Such review and approval shall be completed within forty-five (45) days following date of submission of such documents to the Manager of the HTF. Failure of the Manager to respond within the forty-five (45) day period as set forth herein shall constitute approval of the documents;

(c) Resale Restrictions.

Provisions to ensure continued affordability of inclusionary units offered for sale shall include a formula for limiting equity appreciation to an amount not to exceed twenty-five percent (25%) of the increase in the inclusionary unit's value, as determined by the difference between fair market appraisal at the time of purchase of the property and a fair market appraisal at the time of resale, with such adjustments for improvements made by the seller and necessary costs of sale ~~as may be approved by the Manager, with a recommendation from the Administrative Committee of the HTF~~;

(d) Rent ~~Increases~~ Changes

Provisions for continued affordability of inclusionary rental units shall limit annual rent ~~increases~~ changes to the percentage ~~increase~~ change in the median household income within the Burlington Metropolitan Statistical Area (MSA) which shall become effective when approved by the HTF Manager. ~~except to the extent that~~ ~~F~~further ~~increases~~ changes are made necessary by hardship or other unusual conditions~~, and shall provide that no rent increase may take effect until it has received~~ shall require the approval of the Housing Trust Fund Administrative Committee in writing;

(e) Purchase Option

Provisions for continued affordability of inclusionary units shall provide that the Housing Trust Fund Administrative Committee or its designee shall have an exclusive option to purchase any owner-occupied inclusionary unit when it is first offered for resale for a period of one hundred twenty (120) days from the date on which the HTF Administrative Committee is notified of the availability of the unit; and

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy~~-five~~ percent (70~~5~~%) of median for the County or the City, whichever is less, consistent with the relationship between unit size and household size set forth in Section 9.1.11.

Sec. 9.1.17 Review of Proposal for Phasing

Proposals for projects to be constructed in phases shall be reviewed as a component of the initial project review and shall be included in any conditions of approval. A schedule setting forth the phasing of the total number of units in a covered project, along with a schedule setting forth the phasing of the required inclusionary unit(s), shall be presented for review and approval as part of the permitting process, for any development subject to the provisions of this article. If phasing is not included as part of the review process, no phasing of the inclusionary units shall be allowed.

If a covered project is approved to be constructed in phases, the requirements of the following section shall be applicable to each such phase.

Sec. 9.1.18 Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy

Inclusionary units shall be made available for occupancy on approximately the same schedule as a covered project's market units, except that certificates of occupancy for the last ten percent (10%) of the market units shall be withheld until certificates of occupancy have been issued for all of the inclusionary units; except that with respect to covered projects to be constructed in phases, certificates of occupancy may be issued on a phased basis consistent with the conditions of approval set forth in Sec. 9.1.17.

Sec. 9.1.19 Enforcement

Violations of this article shall be punishable as provided by Article 2 of this Ordinance.

Sec. 9.1.20 Administration

The Housing Trust Fund and its Manager or designee shall monitor activity under this article and shall provide a report no less than every year to the city council, setting forth its findings, conclusions, and recommendations for changes that will render the program more effective. The report described above shall be presented to the city council at a legally warned public hearing.

[END 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

This amendment is aimed purely at housing affordability and has little, if any, impact on the proposed future land use and densities proposed in the *Municipal Development Plan (planBTV).*

Impact on Safe & Affordable Housing

This amendment is aimed at improving the city's inclusionary housing standards and procedures with greater flexibility and geographic sensitivity in meeting inclusionary housing requirements consistent with the policies regarding affordable housing articulated in the *Municipal Development Plan (planBTV).*

Planned Community Facilities

This amendment is not expected to have an 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:

<table>
<tr><th colspan="5">Planning Commission Process</th></tr>
<tr><td rowspan="2">Draft Amendment prepared by:
Staff, based on recommendations referred by City Council</td><td rowspan="2">Presentation to & discussion by Commission
3/26, 4/9, 4/23, 5/14, 5/28</td><td rowspan="2">Approve for Public Hearing
5/28/2019</td><td rowspan="2">Public Hearing
6/25/2019</td><td>Approve & forward to Council</td></tr>
<tr><td>Continue discussion</td></tr>
<tr><th colspan="5">City Council Process</th></tr>
<tr><td rowspan="2">First Read & Referral to Ordinance Cmte</td><td rowspan="2">Ordinance Committee discussion</td><td rowspan="2">Ordinance Cmte recommends to Council [as is / with changes]</td><td rowspan="2">Second Read & Public Hearing</td><td>Approval & Adoption</td></tr>
<tr><td>Rejected</td></tr>
</table>

Department of Planning and Zoning
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David White, FAICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Layne Darfler, Planning Technician
Tracey Crocker, Zoning Clerk

TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: June 25, 2019
RE: Inclusionary Zoning Standards for Institutional Student Housing

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Overview & Background

This amendment is part of the overall inclusionary zoning revisions to Article 9 of the *Comprehensive Development Ordinance* (CDO). At its May 28, 2019 meeting, the Planning Commission moved to send the bulk of the Article 9 amendments to public hearing but specifically pulled out Sections 9.1.6 and 9.1.9 as they pertain to institutional student housing for further discussion by the Planning Commission Ordinance Committee. Discussion among the Planning Commissioners at the May 28 meeting centered on the complexities of applying inclusionary zoning standards to institutional student housing – a fundamentally different type of housing as compared to open-market housing.

The relevant recommendation of the joint committee (CDNR & Ordinance) to the Planning Commission is:

- Recommendation 12- *Develop ordinance language for meeting IZ requirements for institutional student housing projects outside of the institutional zones*.

The Planning Commission Ordinance Committee met on June 5, 2019. Representatives of Champlain College and the University of Vermont were present in addition to staff from Planning & Zoning and CEDO. Committee members agreed that the "on campus" distinction added to Sec. 9.1.6 simply requires definition of what "on campus" amounts to. Discussion of Sec. 9.1.9 was more complicated. Student housing presents three primary challenges to inclusionary zoning standards:

- Institutional student housing involves placing unrelated students of varying means in shared living quarters;
- The income of the occupant (i.e. student) tends to be different from that of the student's parents; and,
- Financial aid comes in packages and does not single out housing costs.

Ultimately, committee members agreed that inclusionary zoning standards for off-campus institutional student housing are most appropriately based on the undergraduate student body so long as housing decisions made by the institutions are income blind. The inclusionary zoning requirement can be satisfied so long as a certain percentage (i.e. 15%) of the undergraduate student body would qualify under the inclusionary zoning standards, and housing decisions made by the institutions are in no way based on students' financial status.

[BEGIN TEXT AMENDMENTS]

Deleted language is ~~crossed out~~, and new language is underlined in red.

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 – 9.1.5

As written.

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) On-campus projects that are located within an Institutional (I) zoning district that are ~~developed by an educational institution~~ for the exclusive residential use and occupancy by that institution's students;

(b) Those dwelling units in a covered project that are produced as "replacement units," pursuant to Article 9, Part 2 and which do not produce any net new units; and,

(c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.

Sec. 9.1.7 – 9.1.8

As written.

Sec. 9.1.9 Percentage of Inclusionary Units

Except as provided for below for institutional student housing projects outside of an Institutional (I) zoning district, ~~A~~all covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units). When the calculation yields a fractional number of required inclusionary units, the number of units shall be rounded up to the nearest whole number if the fractional number is .50 or greater, and down to the nearest whole number if the fractional number is .49 or less.

(Example: a moderately-priced, multi-family housing development with no commercial space on a one-acre lot in the RH would be able to provide 46 units on-site. Of those, 46 x .15 (15%) = 6.9 (rounded up to 7) units of a total of 46 must be inclusionary units. If the applicant can only provide 20 of such moderately priced units on the site, 15% of the 20 units, i.e. 20 units x .15 = 3 units shall be Inclusionary units).

Off-campus student housing projects outside of the Institutional (I) zoning district for the exclusive residential use and occupancy by that institution's students shall meet the percentage requirements for inclusionary units by documenting that 15% or more of the undergraduate student body eligible for occupancy of the project falls under 65% Area Median Income on a yearly basis. An annual report shall be filed with the Manager of the Housing Trust Fund demonstrating that the undergraduate student population continues to meet the 15% inclusionary requirement. A written covenant between the educational institution and the City shall be executed guaranteeing that, in the event that the institutional student housing project ceases to be used as such, the percentage requirements for inclusionary units shall be met as noted above.

Sec. 9.1.10 – 9.1.20
As written.

ARTICLE 13. DEFINTIONS

A – B
As written.

C
Campus: The grounds and buildings of a university, college, or school.

Remainder as written.

D – Z
As written.

[END TEXT AMENDMENTS]

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Burlington Planning Commission

Tuesday, May 28, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Draft Minutes

Members Present	A Montroll, B Baker, A Friend, E Lee
Members Absent	Y Bradley, H Roen, J Wallace-Brodeur
Staff Present	M Tuttle, S Gustin, T Rawlings

I. Agenda

Call to Order	Time: 6:36pm
Agenda	No changes to the agenda

II. Public Forum

Name	Comment	Commission Action
F Von Turkovich	• RE changes to IZ: propose to revise to "not less than 90% of Market Rate units or…[insert size limits]" where unit sizes resemble old ordinance but are revised to include smaller thresholds. Consider the idea of allowing off-site units within "less inclusive" areas as long as in the same tract for more flexibility.	

III. Report of the Chair

A Montroll	• No Report

IV. Report of the Director

M Tuttle	• CEDO Director Announced today; Luke McGowan, with past experience in the White House under President Obama, VP Joe Biden, as well as in private sector for startups working with small businesses. • First budget presentation to BoF was May 21, will present to Council June 17. • Working with the Mayor's Office on coordination for the Housing Summit on June 11; next PC meeting cancelled for staff & PC participation

V. Update Municipal Bylaw Amendment Reports: ZA-19-07A and ZA-19-07B

Action: Re-approve the updated municipal bylaw amendment reports and refer back to Council, with comments		
Motion by: E Lee	Second by: A Friend	Vote: Approved Unanimously
Type: Update, Action	Presented by: M Tuttle	
Discussion/Notes: • M Tuttle reported that Council Ordinance Committee split the ordinance: recommended banks in the ELM, and subsequently discussed the other questions. Changes include adding additional definitions for Industrial and Art Production, reinstating the 5,000 sq.ft. limit to Performing Arts Centers on Pine Street and adding a 15,000 sq.ft. limit south of Home Avenue. Staff also fixed an		

incorrect cross reference in Appendix A. Amendment sent back to reapprove the report and offer any comments to the Council.
- Councilor Bushor noted she received a lot of comments from residents about the performing arts center on Industrial Parkway, mostly opposed with some in favor. After touring the Burton space and understanding the size of other properties in the area, she proposed a cap on the size to be responsive to residents' concerns. Was not a unanimous vote, truly seeking Planning Commission comments.

Commissioner comments:
- Concerned about sq.ft. being inconsistent and perception about big business and small businesses not getting treated the same, especially when both Pine Street and south of Home Ave have proximity to residential areas.
- CU process allows the impacts to be evaluated by location, to account for how the neighborhood changes throughout the zone, and by the size and scale of what is proposed. Intent of the Commission was that these concerns get worked out at DRB.
- PC heard even split between people in favor and opposed
- Want to refer this back to Council with the recommendation that the 15,000 sq.ft. limit on performing arts centers should be consistent across the entire ELM zone

VI. Public Hearing: ZA-19-04 Trees, Junkyards, Cross Reference

Action: Approve the municipal bylaw amendment report and refer to Council with recommendation		
Motion by: A Friend	Second by: E Lee	Vote: Approved Unanimously
Type: Public Hearing, Action	Presented by: S Gustin	

Discussion/Notes:
- Chair opened hearing 7:23pm
- S Gustin: three-part amendment: 1) no new standards for tree cutting, just making sure all of the cross references and applicable standards connect to one another; 2) junkyards definitions are overlapping and not in Appendix A, so creates a new definition that references Junkyard provisions in Code of Ordinances and prohibits them city-wide; and 3) updates an out-of-date cross reference.
- With no public or Commissioner comments, the Chair closed the hearing at 7:25pm

VII. Public Hearing: ZA-19-09 Zoning Administrative Officer

Action: The Chair tabled this item		
Motion by: A Montroll	Second by:	Vote:
Type: Public Hearing, Action	Presented by: S Gustin	

Discussion/Notes:
- Chair opened hearing at 7:27pm
- S Gustin: makes the CDO consistent with the proposed charter change that the ZAO becomes a Mayoral appointment.
- S Bushor: Support improving the permitting system, but didn't support the dissection of Planning & Zoning; felt important to maintain political autonomy of department. Voicing concerns about this change at each stage, and urges the Planning Commission to communicate their lack of support as part of the record of this amendment.
- B Baker: This was presented as "fait accompli" to the Commission. Opposed to splitting the functions of Planning and Zoning. Understand making the ordinance consistent with charter is procedural, but don't want to be a party to this mistake.

- E Lee: Want to send a message to Council that this isn't supported by the Commission, and Commission is losing its authority to appoint Planning Director. Is there a way to not forward this amendment, or send a strong message that the Commission is not in favor?
- A Montroll: PC recommendation was that it continue to appoint the Director. Happy to not move this forward, but problem is that it creates an inconsistency between the charter and CDO. Can refer to City Council without recommendation or take no action.
- The Commission requested staff prepare a letter from PC that reflects their objections from previous discussions with a recommendation to Council that the amendment not be approved. Will revisit this item at a future meeting.

VIII. Proposed CDO Amendment: Inclusionary Zoning Updates

Action: Approve the municipal bylaw amendment report and warn for a public hearing, with changes		
Motion by: E Lee	Second by: B Baker	Vote: Approved Unanimously
Type: Discussion, Action	Presented by: S Gustin, T Rawlings, M Tuttle	

Discussion/Notes:

- S Gustin: Regarding how IZ applies to institutions' housing, on-campus housing in the I zone is exempt. 194 St Paul St is only student-housing project off-campus. During permitting question was how to deal with this fundamentally different housing type. DRB approved project based on population of students eligible to occupy IZ units, with annual verification. Joint Committee forwarded the recommendation that this be the standard. Staff feels its easier to exempt institutions' housing completely, or apply the normal IZ standards. There are limitations with income qualification.
- S Bushor: Concern that institutions don't want to have a conversation about making housing more affordable on-campus, so off-campus is the place to have this discussion.
- T Rawlings: There may be competing public policy goals here: we want Institutions to house their students to take burden off city's housing stock. If we require IZ for institutions, what message does that send. Per many of the tax credit programs, full time students aren't allowed to benefit from units created by the funding.
- M Tuttle: also included "co-living" in applicability section to recognize the multi-family version of boarding house per a different amendment.

Commissioner comments:

- Would like more information about how institutions verify income, provide housing assistance to students. Complex because for students, don't look at their income alone, but include other sources such as financial aid, family support. Not sure that tuition and room & board bills make it explicitly clear what level of support is for housing, vs being a whole package. How does off-campus institution-managed housing get reflected in bills and award packages?
- Challenge is institutions' housing is charged by the bed vs by the unit while conversely IZ income is based on collective income of the household, not the individual(s). In institutional housing, rent stays fixed with grants or other funding offered to subsidize; in private housing, the cost of the housing unit itself fluctuates.
- Concern about students from low-income families and without familial support. Often use award packages to find off-campus housing options that may be of poor quality. This provision notes that the student body qualifies for IZ housing, but does nothing to ensure they receive assistance.
- Can HTF manager look at FAFSA, or identify if the student is claimed as a dependent to determine if the family's income via the tax return applies in qualifying them?

- Concern that this will create an incentive for private developers to build housing to lease to institutions with no obligation to meet IZ requirements.
- If want students to benefit from this ordinance, it will be complex—need to know more about how the student is income-qualified, if and how the rent is restricted.
- Removed the provisions for calculating student housing and co-living, warned the rest of the amendment including changes discussed in previous meetings for public hearing. Student housing topic should be studied further, and co-living can be inserted if the Commission wishes to take up that amendment in the future.

IX. FY 2019 Planning Commission Annual Report

Action: Approve the report and refer to City Council		
Motion by: A Friend	Second by: B Baker	Vote: Approved Unanimously
Type: Discussion, Action	Presented by: M Tuttle	

X. Committee Reports

Executive	No Report
Ordinance	No Report
Long Range	No Report

XI. Commissioner Items

Next Meeting	Tuesday, June 25, 2019 @ 6:30pm in Conference Room 12, City Hall

XII. Minutes & Communications

Action: Approve Minutes & Accept Communications		
Motion by: B Baker	Second by: A Friend	Vote: Approved Unanimously
Changes to Minutes: N/A		
Communications Filed: • Communication from B Duncan regarding IZ ordinance		

XIII. Adjourn

Adjournment	Time: 9:13pm	
Motion: A Friend	Second: B Baker	Vote: Approved Unanimously

Respectfully submitted by: M Tuttle

PUBLIC NOTICE OF HEARING
Vermont Downtown Development Board
Agency of Commerce and Community Development
Department of Housing & Community Development

To:

Executive Director, Chittenden County Regional Planning Commission
Planning Commission Chair, Town of Milton
Planning Commission Chair, Town of Westford
Planning Commission Chair, Town of South Hero
Planning Commission Chair, City of Burlington
Planning Commission Chair, City of Winooski
Planning Commission Chair, City of South Burlington
Planning Commission Chair, Town of Essex
Executive Director, Vermont Natural Resources Council
Director of Policy and Planning Research, Vermont Department of Transportation
Executive Director, Preservation Trust of Vermont

From:

Jacob Hemmerick, Planning and Policy Manager, State of Vermont

Copy:

Sarah Hadd, Director of Planning, Town of Colchester

Date:

May 24, 2019

Re:

Hearing for Five-Year Review of the Town of Colchester's Growth Center Designation

The Town of Colchester submitted information to the Downtown Development Board for the required five-year review of the Growth Center designation granted in 2009. The five-year report submitted by Colchester is available online (here) with other documents related to Growth Center designation (scroll to bottom of page).

The Board will review the designation at its meeting on Monday, June 24, 2019, between 1:00 and 4:00 p.m. An agenda for the meeting will be posted online two weeks in advance of the meeting (here).

The hearing will take place at:

One National Life Drive
Deane C. Davis Building
Calvin Coolidge Conference Room, 6th Floor
Montpelier, VT 05620-0501

Please direct any comments or questions to Jacob Hemmerick at the Department of Housing and Community Development: 802-828-5249, jacob.hemmerick@vermont.gov. Thank you.

Jacob Hemmerick | Planning & Policy Manager
Vermont Department of Housing & Community Development | Community Planning & Revitalization
1 National Life Drive, Davis Bldg, 6th Floor | Montpelier, VT 05620-0501
802-828-5249
accd.vermont.gov
Subscribe to our Strong Communities Quarterly Newsletter!

Burlington Planning Commission
149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)
www.burlingtonvt.gov/pz

Burlington Planning Commission

Tuesday, June 25, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Draft Minutes

Members Present	A Montroll, B Baker, A Friend, E Lee, Y Bradley, H Roen
Members Absent	J Wallace-Brodeur
Staff Present	D White, S Gustin, T Rawlings

I. Agenda

Call to Order	Time: 6:40pm
Agenda	No changes to the agenda

II. Public Forum

Name	Comment	Commission Action
	none	

III. Report of the Chair

A Montroll	PC annual report presented to Council

IV. Report of the Director

D White	• Dept. Transition • Housing Summit • Copies of planBTV & South End available

V. Public Hearing: ZA-19-10 Inclusionary Zoning Update

Action: Refer ZA-19-10 to City Council along with the report and the recommendation that the Council Ordinance Committee re-introduce/reconsider changes to unit size limits in Sec. 9.1.14 based on comments heard at Public Hearing. Commission will continue to deliberate on proposed revision to Sec. 9.1.9 and advance their recommendations to the Ordinance Committee as soon as possible.

Motion by: E. Lee	Second by: Y. Bradley	Vote: Approved Unanimously

Type: Public Hearing, Discussion, Action	Presented by: S Gustin, T Rawlings
Public Hearing	

- E. Bergman – acknowledges a lot of good work done. Was Councilor who originally sponsored this ordinance. 3 issues – elimination of parking lessens social benefit as low income residents continue to need a vehicle. It transfers the cost to the low income tenant rather than developer. AMI based on MSA which is overall higher income and therefore skews affordable rents higher than they actually are in BTV. Should be more reflective of actual BTV incomes. In lieu fees for small development are too little (?) and are same in richer and poorer neighborhoods and should be higher in richer neighborhoods.
- B. Winroth – the total number of IZ units should be the same or more. IZ units shouldn't be segregated from market rate units. People shouldn't be forced to be housed with students. For more IZ housing.

- B. McGavisk – Concerned about reducing payment in lieu and removing 1.5 multiplier for off-site. Would like to see institutions reduce cost of housing. Shouldn't restrict parking for low income tenants. Should instead invest in transit
- F. VonTurkovitch – had proposed change to the unit size. Sec. 9.1.14 which results in a barrier to certain projects.
- C. Winkleman – Financial aid doesn't cover housing so without IZ students are paying full-rate. Need a lever to help students who can't afford housing. Why hasn't City focused more on "exclusionary" effect of rest of zoning (RL districts) where no IZ units can or will be built. The result is creating greater segregation and not addressing the overall purpose of IZ to begin with. Unit size should be equal to market rate not smaller. AMI should reflect renters in BTV which earn much less. Should increase the number of units required – 25%.
- L. Bunders (Champlain) – 194 College St. project is not income based and residents are diverse. Financial aid covers full package including housing at Champlain
- C. Delphia – Low income tenants should not have to pay for parking in addition to housing. Housing prices are increasing leaving no place to go, and if you are without a car you can't live outside of BTV. Students need affordable housing too.
- M. Monte – Many CHT projects are closely connected to IZ. Size limit makes sense, but worried in some cases it may create units larger than are needed. Parking demand is dependent on location so therefore need flexibility. One-size fits all means more expensive units. In lieu changes are important and will result in more money going into the HTF which will result in more affordable housing. IZWG discussed exclusionary nature of zoning and this is reflected in the allowances (or not) for off-site as an option. This doesn't solve the problem, but leans in the right direction. Doesn't appreciate characterization of "ghetto-izing" buildings – inappropriate and disgusting remark. Part of a national network supporting IZ, and feels this is one of the most progressive ordinances in the country today.
- E. Mahnke – Been involved in this issue for very many years. IZ is not a panacea to our housing challenges – never meant to be. IZ brings no public subsidy so therefore the units must stand on their own. Partnerships with non-profits therefore brings a much deeper level of affordability. Good process and good work balancing interests of diverse developers and advocates. Many original recommendations of report never advanced after thoughtful discussion and analysis. 2-bdrm rent affordable to some earning $53,755. Originally opposed parking (should be included in rent calculation). Size limits may be something to look into further. AMI has some balancing with lower income rural areas, but not perfect and few better alternatives.
- J. Knodell – Thanks for good work. Chaired the IZ Working Group. A complex issue with many inter-related parts. Intended to ensure that as many projects as possible participate which was basis for payment in lieu and off-site options. Need reasonable data sources with the understanding they are imperfect.
- A. Montroll – read memo from Mayor into the record.

Commission Discussion/Notes:

- E. Lee – can't support if low income students don't have clear access to affordable units.
- A. Friend – Committee struggled to find a mechanism to define and measure affordability for students
- T. Rawlings – Many/most IZ ordinances are not applicable to institutions. It can be seen as a barrier to creation of new student housing which runs counter to broader affordable housing objectives. Income testing for students is very difficult given various aid packages that may be made available.

- B. Baker – Institutional housing is likely to be larger in scale and therefore more able to absorb subsidy cost of IZ units
- May want to re-consider unit size limits

VI. Committee Reports

Executive	No Report. Next meeting July 9 at 5:30
Ordinance	Met to discuss Institutional IZ requirements
Long Range	No Report

VII. Commissioner Items

Next Meeting	Tuesday, June 25, 2019 @ 6:30pm in Conference Room 12, City Hall
E. Lee – what requirements are there for the provision of accessible units – ADA and/or Universal Design? Are there incentives? Refer topic to Exec. Committee for future scheduling	

VIII. Minutes & Communications

Action: Approve Minutes & Accept Communications		
Motion by: Y. Bradley	Second by: A. Friend	Vote: Approved Unanimously
Changes to Minutes: none		
Communications Filed: • Memo from Mayor re: IZ amendment		

IX. Adjourn

Adjournment	Time: 8:17pm	
Motion: E. Lee	Second: H. Roen	Vote: Approved Unanimously

Respectfully submitted by: D.E. White