

Burlington Planning Commission

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

www.burlingtonvt.gov/pz

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



PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance **ZA-19-04 Tees, Junkyards, and Cross Reference Correction** **ZA-19-09 Zoning Administrative Officer**

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, May 28, 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-19-04:** The purpose of this amendment is to make a number of technical corrections to relocate language regarding tree removal standards from Article 3 to Article 5, and eliminate references to these standards that are duplicative and/or superseded by Article 14; relocate the zoning permit exemption for tree removal in city parks from Article 4 to Article 3, and add "Civic" districts (created by Article 14) to those applicable districts exempt from a permit; delete Automobile Salvage/Junkyard definition, and create a new definition for Junkyards, amend the Vehicle Salvage Yard definition, and prohibit both within all zoning districts; and address an incorrect reference within Sec.6.2.2 (p).
- **ZA-19-09:** The purpose of this proposed amendment is to disjoin the Director of Planning and Zoning from the Zoning Administrative Officer (ZAO) and to clarify the appointment process of the ZAO consistent with the voter-approved charter change.

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

- **ZA-19-04:** The proposed amendment applies to all areas and zoning districts.
- **ZA-19-09:** The proposed amendment has no impact on geographic areas or zoning districts of the city.

List of section headings affected:

- **ZA-19-04:** The proposed amendment modifies *Sec. 3.1.2 (a) and (c)*; deletes *Sec. 4.4.6 (d) 2*, amends *Sec. 5.5.4*; amends *Article 13 Definitions*; amends *Appendix A- Use Table*; and amends *Sec 6.2.2 (p)*.
- **ZA-19-09:** The proposed amendment modifies *Sec 2.3.2*.

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, May 28, 2019, 6:30 P.M.
City Hall, Conference Room 12, 149 Church Street
AGENDA

I. **Agenda**

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

III. **Chair Report**

IV. **Director's Report**

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

City Council Ordinance Committee made a number of changes to proposed ZA-19-07 Commercial Uses in E-LM, which was recommended by the Planning Commission. The Commission is afforded an opportunity to update the municipal bylaw amendment report and submit any further comments to the Council. Information related to this item is included in the agenda packet on pages 3-26.

Staff Recommendation: The Commission is recommended to approve the applicable municipal bylaw amendment reports and forward them to City Council.

VI. **Public Hearing: ZA-19-04 Trees, Junkyards, and Cross Reference** (Time Certain 6:45pm)

The Planning Commission will hold a public hearing on a proposed amendment to the *Burlington Comprehensive Development Ordinance* regarding the location of and references to tree cutting standards, a cross reference and definition and standards around junkyards. Information related to this item is included in the agenda packet on pages 27-40.

Staff Recommendation: The Commission is recommended to approve the municipal bylaw amendment report and forward the proposed amendment to City Council.

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

The Planning Commission will hold a public hearing on a proposed amendment to the *Burlington Comprehensive Development Ordinance* regarding the role and appointment process for the Zoning Administrative Officer consistent with the voter-approved charter changes. Information related to this item is included in the agenda packet on pages 41-42.

Staff Recommendation: The Commission is recommended to approve the municipal bylaw amendment report and forward the proposed amendment to City Council.

VIII. **Proposed CDO Amendment: Inclusionary Zoning Updates**

The Commission will conclude its discussion of proposed amendments to the *Burlington Comprehensive Development Ordinance* regarding Inclusionary Zoning requirements. Information related to this item is included in the agenda packet on pages 43-60.

Staff Recommendation: Following discussion, staff recommends the Commission approve the municipal bylaw amendment report and warn the amendment for public hearing with any changes indicated.

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

IX. FY 2019 Planning Commission Annual Report

The Commission will discuss any proposed changes or additions to the draft FY19 Annual Report and forward it for delivery and presentation to City Council. The draft report is included in the agenda packet on pages 61-69.

Staff Recommendation: The Commission is recommended to approve report, with any changes, and forward it to City Council.

X. Committee Reports

XI. Commissioner Items

- a. Next meeting is June 25, 2019 at 6:30pm in Conference Room 12
- b. June 11 meeting is cancelled due to staff and Commissioner participation in the Burlington Housing Summit: <https://www.burlingtonvt.gov/mayor/burlingtonhousingsummit2019>

XII. Minutes & Communications

- a. Minutes from the May 14, 2019 meeting are enclosed in the agenda packet on pages 70-72

XIII. Adjourn

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Department of Planning and Zoning

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Ryan Morrison, Assistant Planner
Layne Darfler, Planning Technician



TO: Council President Wright
Burlington City Council
Mayor Weinberger
FROM: Meagan Tuttle, Comprehensive Planner
DATE: May 22, 2019
RE: Proposed CDO Amendment ZA-19-07A: Commercial Uses in the E-LM Zone

Overview & Background

The proposed amendment emerged from a number of separate requests to City and the Planning Commission to consider certain commercial uses in the Enterprise-Light Manufacturing (E-LM) district:

- Prospective tenants for the Maltex building on Pine Street, all intending to establish a bank in the building. This use is not presently permitted anywhere in the E-LM.
- An inquiry about expanding the size limit for performing arts centers in order to allow Arts Riot to expand into an adjacent space for its office/storage needs. A performing arts center is presently limited to 5,000 sq.ft. on properties along Pine Street.
- Burton's interest in repurposing one of their buildings on Industrial Parkway, to include a range of R&D, warehouse, and other commercial uses, including a performing arts center.

These requests, as well as a number of requests that have been approved in the past few years, relate to the long-standing concern that the E-LM standards are somewhat outdated, and utilize a one-size-fits-all approach despite the evolving nature of the district, and the varying character between Pine Street and Industrial Parkway. This concern is one of the underlying factors that prompted the creation of the draft *planBTV: South End Master Plan*; a comprehensive update to the E-LM standards is one of the key recommendations of the draft plan. A comprehensive review of the district is likely in late 2019.

Recent amendments to E-LM have begun to incorporate the approach discussed in *planBTV: South End* – to consider the appropriateness of various art, commercial, and industrial uses within certain parts of the district. A recent example is the provision of small grocery stores between Flynn & Home Avenues only. This amendment used a similar approach: to balance the timely consideration of the requested change at hand with the big picture guidance of *planBTV: South End*.

A version of this proposed amendment was originally presented to the Planning Commission on November 27, 2018 and was the subject of a public hearing on January 9, 2019. Following the Public Hearing, the Commission requested staff to make some modifications to address several questions:

- How do we define manufacturing uses in a way that recognizes the evolving nature of the industry, and provides flexibility for it to thrive in the South End?
- How do we protect industrial uses and "do no harm" to current property values and interests?
- Where do we allow performing arts venues in the district and how do we mitigate their impact?

On January 29, 2019 the Planning Commission forwarded the proposed amendments to City Council. During the Ordinance Committee discussion on May 7, the Committee voted to divide this amendment into two parts: ZA-19-07a, which includes the bulk of the original proposal from the Planning

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

Commission. At a subsequent meeting on May 14, the Committee made changes to the size and geographic limit for Performing Arts Centers. ZA-19-07b addresses only the request to allow Banks in the E-LM, along with a prohibition on drive-thrus. Amendment ZA-19-07b has been referred to the City Council for public hearing and adoption. As such, this memo has been updated to address the remainder of proposed ZA-19-07a.

Ordinance Committee Modifications

During the Ordinance Committee discussions, the following changes were made to the proposed amendment.

- Revise the proposed language of *Sec. 4.4.3 (c) 2* to ensure that terms used are clearly defined in Article 13, and to clarify what types of uses are contemplated in parts 'a' and 'b.'
 - *The text of Sec 4.4.3 (c) 2. a & b was subsequently amended, and new definitions of Industrial and Art Production were added to Article 13.*
- Limit the size of Performing Arts Centers south of Home Avenue to 15,000 sq.ft..
 - *Footnotes in Appendix A were subsequently amended to reflect this change.*
- Maintain the 5,000 sq.ft. limit and geographic limit to Pine Street to Performing Arts Centers on Pine Street, as is presently in the ordinance.
 - *Footnotes in Appendix A were subsequently amended to reflect this change.*

Recommended Amendment Details

Amendment Type

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

The purpose of the proposed amendment is to permit additional commercial uses in certain parts of the E-LM zoning district in a way that is consistent with the vision for the South End articulated in *planBTV: South End Master plan*. This includes creating definitions for Industrial and Art Production, expanding the geographic and size limit for Performing Arts Centers south of Home Avenue, creating new R&D and Technical Office uses, and establishing a requirement that limits the gross floor area (GFA) of uses not related to Industrial and/or Art Production uses on a lot south of Home Avenue to 49%. The major goals of this amendment include:

1. Prioritize Industrial and Art Production uses in the southern part of the E-LM
planBTV: South End identifies the southern part of the Enterprise Zone as an important area to preserve for traditional and emerging industrial, R&D, and art/maker uses. As such, the amendment:
 - establishes definitions to generally describe uses that are considered to be "Industrial" and "Art Production" uses; creates a new Technical Office definition
 - updates definitions for a number of manufacturing uses to recognize the evolving nature of the industry
 - adds Technical Office and R&D (existing definition) uses to *Appendix A-Use Table*

In addition to Industrial and Art Production uses, the following commercial uses are also currently permitted or conditional uses in this part of the E-LM zone. Particularly for retail and general office, these uses can create upward market pressure, making space less affordable for Industrial and Arts businesses. Modeled after research from other communities, this amendment seeks to create a mechanism to protect space for these uses.

This balance is achieved not by prohibiting the following uses, but rather by limiting them to a supporting role within a portion of the district:

- General Retail, specific retail types, General Office, Open Air Markets
- Variety of auto, marine, bike, rail related sales and services
- Health Clubs & Studios
- Cafes & Bakeries
- Community Center,
- Daycare & Preschools
- Medical/Dental Offices
- Animal care services

2. Leverage market-rate commercial uses to support industrial uses

planBTV: South End recognizes the challenge of preserving Industrial uses given the market realities of the South End, and identifies the need to come up with creative solutions to support these uses. To do so, this amendment leverages traditional commercial uses to subsidize space for Industrial and Art purposes.

This is accomplished by allowing the types of commercial uses identified above south of Home Avenue only when they are on the same lot as one or more Industrial/Art Production uses, and by limiting the collective area of those commercial uses to no more than 49% of the gross floor area on the lot. To do so, this amendment establishes two groups of uses:

Group A Use Types Permitted or conditional uses in E-LM which are allowed without a size limitation south of Home Avenue.	Group B Use Types Permitted or conditional uses in E-LM which are allowed south of Home Avenue when: - on a lot with one or more Group A uses - collective GFA of Group B uses is <49% of total GFA on the lot
Food & Beverage Processing	Animal Boarding & Kennel/Shelter, Vet/Animal Hospital
Medical/Dental Lab	Auto Repair/Body Shop, Auto/Marine Parts, Bicycle Repair, Boat Rental/Sales; Auto Sales, Car Wash, Rail Equip/Storage, RV Sales
Technical Office (new use)	General Office
Machine/Woodworking, Manufacturing & Tour-Oriented Manufacturing, Warehouse, R&D	Appliance Sales/Service, Dry-cleaning service, Laundromat, Auction House, Garden Supply
Hazardous Waste Disposal, Solid Waste Facility, Recycling Center; Dry Cleaning Plant	Wholesale Sales General Retail (Large or Small) Open Air Markets
Retail Warehouse/Self Storage, Printing Plant, Distribution Center, Lumber Yard, Contractor Yard	Performing Arts Center (currently limited in size & to Pine St), Performing Arts Studio, Community Center, Park, Community Garden
Art Gallery Studio, Film Studio, Photo Studio & Photography, Radio/TV/Recording Studio, Printing Studio	Café/Bakery
Taxi/Bus Operations & Trucking Operations, Public Transit Terminal, Public Works Yard/Garage	Medical/Dental Office
Fire Station, Police Station, Post Office Distribution Center	Health Club/Studio, Indoor Recreation Facility
Parking Lot/Garage	Trade School, Daycare & Preschool

3. Expand the allowable area of Performing Arts Centers in the E-LM
Finally, this amendment accommodates the request to allow Performing Arts Centers as a commercial use that supports Industrial activities south of Home Avenue. This is achieved by amending footnotes which currently limit this use to 5,000 sq.ft. only on properties fronting Pine Street, to also include a limit up to 15,000 sq.ft. for properties fronting Industrial Parkway.

Proposed Amendments

To achieve the goals identified above, the proposed amendment affects the following sections of the *Burlington Comprehensive Development Ordinance* (see attached amendments):

- Amend Sec. 4.4.3 to establish the limitation on 'Group B' uses
- Amend Article 13 to create and modify Industrial, Manufacturing, Art production, and Technical Office definitions
- Amend Appendix A- Use Table to reference new *Sec. 4.4.3 (c) 2* for 'Group B' uses; add new 'Manufacturing-Light' and 'Office-Technical' uses, add 'Research & Development' use, and delete 'Machine/Woodworking Shop' and 'Manufacturing-tour Oriented' uses; add footnotes to limit the size of 'Manufacturing-Light' uses in neighborhood mixed-use districts, and to require uses that offer public tours to be permitted by conditional use provisions; and amend the footnote limiting Performing Arts Centers to 5,000 sq.ft. on Pine Street to also include a limit up to 15,000 sq.ft. on Industrial Parkway. This amendment also makes a technical change to correct an outdated cross reference that applies to a variety of uses in the DW-PT district column; this error was discovered during the amendment discussion.
- Amend Article 14 planBTV Downtown Code Sec. 14.3.4-H and Sec. 14.3.5-H to reflect the updated use types consistent with the above two modifications.
- Amend Table 8.1.8-1 Minimum Off-Street Parking Requirements to account for the change to uses/definitions above as follows and to add a requirement for the new 'Office-Technical' use consistent with the requirements for general office.

Relationship to Municipal Development Plan (planBTV)

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Proposed Future Land Use & Density

The *2014 Municipal Development Plan (planBTV)* identified the E-LM zone for encouraging light industry, creative arts/industries, manufacturing, and incubator space for new and emerging businesses in appropriate locations. The plan further called for an evaluation of the district's future—as one that is commercial-industrial in nature, or one that is more mixed-use. The *2019 planBTV* update adopted *planBTV: South End Master Plan* by reference, which is specific to the E-LM zone. This plan provides this evaluation, with the recommendation that the future land use for the southernmost portion of the E-LM is focused on supporting the needs of light industrial, R&D, and industrial arts/maker businesses.

As such, a critical element of the proposed amendment is the new provision which places an emphasis on and creates a protection for these types of uses. This creates a mechanism by which a variety of general commercial uses are permitted in this area only when they are on a lot with an industrial use. *planBTV: South End* does not identify an exhaustive list of commercial uses which should be permitted

or not, but rather indicates that commercial uses not related to Industrial and maker enterprises should be limited, and not be stand-alone uses. Therefore, the proposed amendment is consistent with *planBTV: South End Master Plan*.

The proposed amendment does not impact the permitted density or intensity of land uses. While some new commercial uses are permitted by this amendment in the southernmost part of the E-LM zone, they are limited in size and subject to conditional use review. Other uses which may have similar parking and/or build out requirements that have been permitted with little restriction are now limited in their overall size relative to the area of a lot and other buildings on the lot.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the availability of safe and affordable housing. Housing is not presently permitted in the E-LM, and the proposed amendment does not change this.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities. There are new and upgraded transportation system segments anticipated throughout the E-LM as identified in *planBTV: South End*. However, this amendment is not anticipated to impact the design or feasibility of those projects.

Process Overview

The following chart summarizes the current stage in the amendment process, and recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff, upon request	Presentation to & discussion by Commission 11/27/2018	Approve for Public Hearing 11/27/2018	Public Hearing 1/9/2019	Approve & forward to Council 1/29/2019
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte 2/11/2019	Ordinance Committee discussion 5/7/19 5/14/19 (19-07A)	Recommend to Council with changes, incl. separation of 19-07A, 19-07B 5/14/19	Second Read & Public Hearing	Approval & Adoption
				Rejected

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Planning Department,
Planning Commission, Council
Ordinance Committee

Public Hearing Dates: _____

In the Year Two Thousand Nineteen

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE –
Commercial Uses in the E-LM Zone
ZA #19-07A

First reading: _____

Referred to: _____

Rules suspended and placed in all
stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Section 4.4.3, Enterprise Districts, Table 8.1.8-1 Minimum Off-Street Parking Requirements, Section 13.1.2, Definitions, Section 14.3.4—H—Use Type FD6, Section 14.3.5—H—Use Type FD5, and Appendix A-Use Table—All Zoning Districts, thereof to read as follows:

Sec. 4.4.3 Enterprise Districts

(a) – (b) As written.

(c) Permitted and Conditional Uses:

1. The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Enterprise districts shall be defined in Appendix A- Use Table.

2. Within the E-LM district, uses unrelated to Industrial or Art Production are permitted to be located on lots south of Home Avenue only when:

- a. one or more Industrial and/or Art production use(s) exists on the lot; and
- b. the combined gross floor area (GFA) of all other use(s) does not exceed 49% of the gross floor area on the lot. Uses limited by this provision are identified by Footnote 27 in Appendix A- Use Table; all uses marked as a conditional use or with additional footnotes in Appendix A continue to apply.

(d) 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.

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		
***	***		
RESIDENTIAL USES - SPECIAL	Per Dwelling Unit except as noted		
***	***		
NON-RESIDENTIAL USES	Per 1,000 square feet of gross floor area (gfa) except as noted		
***	***	***	***
Machine shop/Woodworking Shop-Manufacturing- Light	1.3, plus 3 per 1,000 gfa devoted to patron use.	1, plus 2 per 1,000 gfa devoted to patron use.	1
Manufacturing	1.3, plus 3 per 1,000 gfa devoted to patron use.	1, plus 2 per 1,000 gfa devoted to patron use.	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
***	***	***	***
<u>Office, Technical</u>	<u>2</u>	<u>2</u>	<u>2</u>
***	***	***	***

Sec. 13.1.2 Definitions.

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

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

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

Art Production: Activities associated with the creation, printing, and recording of works of art, except live performing arts performances open to the public.

Industrial: Businesses involved in activities such as manufacturing or processing of products by automated, digital, mechanical, or manual means; warehousing and storage; waste disposal; transportation and logistics; research and development; and related technical engineering and distribution functions. (See also Manufacturing, Manufacturing-Light, Office-Technical, Research and Development Facility, Food and Beverage Processing, etc)

Machine/Woodworking Shop: ~~Shops less than 10,000 square feet where lathes, presses, grinders, shapers, and other wood and metal working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops. Includes stone cutting but excludes drop forge.~~

Manufacturing: The mechanical or chemical transformation of materials or substances into new products, including but not limited to the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, metal, wood, stone, etc., ~~including. Includes drop forge. Manufacturing establishments are greater than or equal to 10,000 square feet,~~ and incidental storage and distribution of products. A manufacturing use may include a show room and/or offer public tours that are incorporated into the facility's ordinary operations.

Manufacturing- Light: The manufacturing of finished products or parts from previously prepared materials using hand tools, mechanical tools, and electronic tools, including processing, fabrication, assembly, treatment, and packaging of products, as well as incidental storage, sales, and distribution of such products; as well as shops for overhaul and repair including for plumbing, HVAC, and electrical. A light manufacturing use may include a show room and/or offer public tours that are incorporated into the facility's ordinary operations.

Manufacturing-tour Oriented: ~~A manufacturing and/or processing establishment in which public tours are accommodated and incorporated into the facility's ordinary operations and may include the accessory retail sale of products or goods produced on the premises.~~

Office-Technical: Offices of businesses providing professional services in a technical field including but not limited to engineering, graphic design, industrial design, product design/development, surveying and publishing, but not including standalone medical/dental, or general professional, and administrative services.

*Balance of Section 13.1.2 As written.

Section 14.3.4-H- Use Type FD6--*See proposed changes on attached Section 14.3.4-H-Use Type FD6.

Section 14.3.5-H- Use Type FD5--*See proposed changes on attached Section 14.3.5-H-Use Type FD5.

Appendix A—Use Table—All Zoning Districts—*See proposed changes on attached table.

94

95 ** Material stricken out deleted.

96 *** Material underlined added.

97

98 lb/KS: Ordinances 2019/Zoning Amendment – ZA #19-07a Commercial Uses ELM, Sec. 4.4.3, Table 8.1.8-1 Sec. 13.1.2, Appendix A-Use

99 Table—All Zoning Districts, Sec. 14. 3.4—H, Sec. 14.3.5—H

100 5/22/19 MET

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	CU ²⁷
Animal Grooming	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	CU ²⁷
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	N	CU	CU	CU	CU	Y	Y ²⁷
Appliance Sales/Service	N	N	N	N	N	N	N	N	N	Y ²⁴	Y	Y	Y ²⁴	N	Y ²⁷
Aquarium	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) ²¹)	N	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) ²¹)	Y	Y	Y	Y	Y	Y
Auction House	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁷
Automobile Body Shop	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y ²⁷
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) ²¹)	CU	Y	Y	Y	N	Y ²⁷
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	N	Y ²⁷
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁷
Bakery	N	N	N	N	N	N ²²	N ²²	CU ¹³	N	Y	Y	Y	Y	Y	Y ²⁷
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Bar, Tavern	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y	Y	CU	Y	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y ²⁷
Billiard Parlor	N	N	N	N	N	N	N	N	N	CU	Y	CU	Y	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) ²¹)	N	CU	CU	N	N	Y ²⁷
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) ²¹)	N	Y	Y	N	N	Y ²⁷
Boat Storage	N	N	CU	N	N	N	N	N	N	N	CU	CU	N	N	Y ²⁷
Bowling Alley	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Building Material Sales	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	Y	N	N	Y ²⁷

Proposed changes to Appendix A- Use Table for ZA-19-07A

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ¹³	(See Sec.4.4.1(d) 21)	Y	Y	Y	Y	CU	CU ²⁷
Camp Ground	N	Y	Y	N	N	N	N	N	(See Sec.4.4.1(d) 21)	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N	N	CU	Y	CU	N	CU ²⁷
Cemetery	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU	N	CU ¹⁴	Y	N	Y ¹⁴	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	N	CU	CU	N	CU	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	N	Y	Y	Y	Y	N	CU ²⁷
Community Garden	N	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y ²⁷
Conference Center	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	N	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ¹²	N	Y ¹²	Y	Y	Y ¹²	N	Y ²⁷
Convention Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	N	N	N	N	N	N	N
Crematory	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
Daycare - Large (Over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ^{17, 27}
Daycare - Small (up to 20 children) (See Sec.5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ^{17, 27}
Daycare – Family Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y
Distribution Center	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Service	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y ²⁴	Y	Y	Y ²⁴	N	CU ²⁷
Film Studio	N	N	N	N	Y	N	N	N	N	N	CU	Y	CU	N	CU
Fire Station	N	N	Y	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Food & Beverage Processing	N	N	N	N	N	N	N	N	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	Y	Y
Fuel Service Station ⁹	N	N	N	N	N	N	N	N	N	CU ¹¹	Y ¹¹	Y	N	N	N
Funeral Home	N	N	N	N	N	CU ⁷	CU ⁷	CU ⁷	N	CU	Y	Y	N	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	N	CU ²⁴	Y	Y	N	Y	Y ²⁷
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N ²²	N ²²	N ²²	(See Sec.4.4.1(d) 21)	Y	Y	Y	Y	N	Y ²⁷
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 21)	N	CU ¹⁸	CU	CU	N	CU ^{17, 27}

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU	N	Y	Y	Y	Y	CU	CU ²⁸
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁸
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU	N	CU	Y	Y	Y	N	CU ²⁷
Health Studio	N	N	N	N	Y	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	Y ²⁷
Hospitals	N	N	N	N	CU	N	N	CU	N	N	N	N	N	N	N
Hostel	N	N	N	N	Y	N	N	CU	N	Y	Y	Y	Y	N	N
Hotel, Motel	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) ²¹)	N	Y	N	Y	N	N
Laundromat	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y ¹³	Y	Y	Y	N	Y ²⁷
Library	N	N	N	N	Y	CU	CU	Y	N	Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	N	N	CU ¹⁰	Y	N	N	Y
Machine/Woodworking Shop Manufacturing- Light ²⁹	N	N	N	N	N	N	N	N	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴²⁴	CU	Y
Manufacturing ²⁹	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	Y
Manufacturing – Tour Oriented	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	CU
Marina	N	N	Y	N	N	N	N	N	(See Sec.4.4.1(d) ²¹)	N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	N	CU	Y	Y	N	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (See §5.4.11)	N	N	N	N	N	N	N	N
Museum–Small < 10,000 sqft	N	CU	CU	CU	Y	CU ¹³	CU ¹³	CU ^{8,13}	(See Sec.4.4.1(d) ²¹)	Y	Y	Y	Y	CU	Y ²³
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) ²¹)	N	CU	CU	N	CU	CU ²³
Office - General	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	Y ²⁷
Office - Medical, Dental	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	Y ²⁷
Office-Technical	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	Y
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	(See Sec.4.4.1(d) ²¹)	Y	Y	Y	Y	Y	Y ²⁷
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	N	N	N	N	N	N	CU ¹¹	N	N	Y
Operations Center - Trucking ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹¹	N	CU ¹¹	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	(See Sec.4.4.1(d) ²¹)	Y	Y	Y	Y	CU	CU ²⁷

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Parking Garage ⁹	N	N	N	N	Y	N	N	CU	N	CU	Y	N	CU	N	CU
Parking Lot ⁹	N	N	N	N	N	N	N	N	N	N	CU	N	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	CU	Y	N	CU	N	CU ^{27,27.32}
Performing Arts Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) <u>21</u>)	CU	CU	CU	Y	N	Y ²⁷
Pet Store ¹⁰	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N ²²	N ²²	N	N	Y	Y	Y	Y	N	Y
Photography Lab	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	CU	Y
Police Station - Central	N	N	N	N	CU	N	N	N	N	Y	Y	Y	N	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	Y
Post Office - Local	N	N	N	N	Y	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	Y
Printing Shop	N	N	N	N	CU	N ²²	N ²²	N	N	CU	Y	Y	Y	N	Y
Public Transit Terminal	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	N	CU	CU	Y	CU	Y
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	N	N	N	N	N	CU ¹¹	Y ¹¹	N	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	N	N	N	N	CU	CU ²⁷
Recording Studio	N	N	N	N	N	N	N	CU	N	CU	CU	Y	Y	N	Y
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	(See Sec.4.4.1(d) <u>21</u>)	N	Y	CU	N	N	CU ²⁷
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	N	N	CU	N	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	N	Y	Y	CU	N	N
Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	N	N	CU	CU	N	N	Y ²⁷
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	CU	CU	CU	CU	CU	Y
<u>Research and Development Facility</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>Y</u>

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Research Lab	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	N	CU	CU	CU ²⁴	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	(See Sec.4.4.1(d) <u>2</u>)	Y ¹³	Y	Y	Y ¹³	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	(See Sec.4.4.1(d) <u>21</u>)	Y ¹³	Y	Y	Y ¹³	N	Y ^{13, 27}
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	N	Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	N	CU	CU	CU	CU	N	N
School – Preschool Large (over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ^{17, 27}
School – Preschool Small (up to 20 children) (see Sec. 5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ^{17, 27}
School - Primary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	N	CU	N	N	CU	N	CU ²⁷
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) <u>21</u>)	N	N	Y ¹⁵	N	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N	N	CU ¹⁵	CU ¹⁵	N	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	N	Y	CU	CU	CU	N	N

- 1. Residential uses are not permitted except only as an accessory use to an agricultural use.
- 2. Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1.
- 3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
- 4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
- 5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
- 6. Must be owner-occupied.
- 7. Must be located on a major street.
- 8. Small daycare centers and small preschools in the RCO zones shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
- 9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
- 10. Exterior storage and display not permitted.
- 11. All repairs must be contained within an enclosed structure.
- 12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
- 13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
- 14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
- 15. Excludes storage of uncured hides, explosives, and oil and gas products.
- 16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
- 17. Allowed only as an accessory use.
- 18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
- 19. [Reserved].
- 20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
- 21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
- 22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
- 23. Allowed only on properties with frontage on Pine Street.
- 24. Such uses shall not exceed 4,000 square feet in size.
- 25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
- 26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
- ~~27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment. This use is permitted or conditionally permitted on lots south of Home Avenue only when one or more Industrial or Art Production use(s) exists on the lot, and when the combined gross floor area of all uses with this footnote does not exceed 49% of the Gross Floor Area on the lot.~~
- ~~28.~~
- ~~29-28.~~ Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.
- ~~30-29.~~ Must be fully enclosed within a building.
- ~~34-30.~~ New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.
- ~~31.~~ See special use standards of Sec. 5.4.13, Emergency Shelters.
- ~~32. Performing Arts Centers in the ELM zone shall be limited to properties with frontage on Pine Street up to 5,000 square feet in size, and to properties with frontage on Industrial Parkway up to 15,000 square feet in size. Performing Arts Centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.~~

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

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

14.3.4-H- Use Type FD6

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

RESIDENTIAL - GENERAL

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

Assisted Living	P
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Boarding House ¹	P
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Community House (Sec. 14.6.6.e)	P
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Convalescent /Nursing Home	P
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SHORT-TERM ACCOMMODATIONS

Bed and Breakfast ¹	P
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Historic Inn (Sec. 14.6.6.c)	P
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Hotel	P
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Shelter	P
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RETAIL - GENERAL

ATM	P
-----	---

Auto/Boat/RV Sales/Rentals ³	P
---	---

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

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

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

RETAIL - OUTDOOR

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

Key

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

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

END NOTES

¹ Must be owner-occupied.

² Automobile sales not permitted as an Accessory Use

³ Exterior storage and display not permitted.

14.3.4-H- Use Type FD6

OFFICE & SERVICE

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

Auto/Boat/RV Service ³ (Sec. 14.6.6.d)	P
---	---

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

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

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

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

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

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

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

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

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

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

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

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

HOSPITALITY/ENTERTAINMENT/RECREATION

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

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

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

Billiards, Bowling & Arcade	P
-----------------------------	---

Café	P
------	---

Cinema	P
--------	---

Club, Membership	P
------------------	---

Community Center	P
------------------	---

Conference/Convention Center	P
------------------------------	---

Museum	P
--------	---

Performing Arts Center	P
------------------------	---

Performing Arts Studio	P
------------------------	---

Recreational Facility - Indoor	P
--------------------------------	---

Restaurant	P
------------	---

Restaurant – Take Out	P
-----------------------	---

14.3.4-H- Use Type FD6

MANUFACTURING/PRODUCTION/STORAGE

Dental Lab	P
Food Processing	P
Machine/Woodworking Shop <u>Manufacturing-Light</u> ³	P
Manufacturing ³	P
Manufacturing – Tour-Oriented ³	P
Medical Lab	P
Production Studio	P
Photography Lab	P
Printing Plant	P
<u>Research & Development Facility</u>	P
Research Lab	P
Warehouse/Storage ³	P
Warehouse, Self-Storage ³	P

EDUCATION & DAY CARE

Day Care - Adult	P
Daycare - All (Sec. 14.6.6.b)	P
School - Post-Secondary & Community College	P
School - Primary	P
School - Secondary	P

14.3.4-H- Use Type FD6

School, -Trade, or Professional	P
---------------------------------	---

Civic

Courthouse	P
Fire Station	P
Library	P
Park	P
Police Station	P
Post Office	P
Worship, Place of	P

TRANSPORTATION & UTILITIES

Recycling Center - Small ³ (2,000 sf or less)	P
Public Transit Terminal	P
Operations Center – Taxi/Bus ³	P

Key

Permitted Use	P
Conditional Use	CU

END NOTES

³ Exterior storage and display not permitted.

14.3.5-H- Use Types

FD5

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

RESIDENTIAL - GENERAL

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

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

RESIDENTIAL - SPECIAL

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

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

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

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

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

Short-term accommodations

Bed and Breakfast ¹	P
--------------------------------	---

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

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

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

RETAIL - GENERAL

ATM	P
-----	---

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

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

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

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

RETAIL - OUTDOOR

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

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

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

14.3.5-H- Use Types

FD5

OFFICE & SERVICE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HOSPITALITY/ENTERTAINMENT/RECREATION

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

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

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

Key

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

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

END NOTES

¹Must be owner-occupied.

² Exterior storage and display not permitted.

14.3.5-H- Use Types

FD5

HOSPITALITY/ENTERTAINMENT/RECREATION

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

MANUFACTURING/PRODUCTION/STORAGE

Boat Storage ²	P
Dental Lab	P
Food Processing	P
Machine/Woodworking Shop Manufacturing-Light ²	P
Manufacturing ²	P
Manufacturing – Tour Oriented ²	P
Medical Lab	P
Production Studio	P
Photography Lab	P
Printing Plant	P
Research and Development Facility	P
Research Lab	P
Warehouse/Storage ²	P

14.3.5-H- Use Types

FD5

Warehouse, Self-Storage ²	P
--------------------------------------	---

EDUCATION & DAY CARE

Day Care - Adult	P
Daycare - All (Sec. 14.6.6.b)	P
School - Post-Secondary & Community College	P
School - Primary	P
School - Secondary	P
School, -Trade, or Professional	P

Civic

Courthouse	P
Fire Station	P
Library	P
Park	P
Police Station	P
Post Office	P
Worship, Place of	P

TRANSPORTATION & UTILITIES

Recycling Center - Small ² (2,000 sf or less)	P
Public Transit Terminal	P
Operations Center – Taxi/Bus ²	P

Key

Permitted Use	P
Conditional Use	CU

END NOTES

¹Must be owner-occupied.

² Exterior storage and display not permitted.

Department of Planning and Zoning

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Ryan Morrison, Assistant Planner
Layne Darfler, Planning Technician



TO: Council President Wright
Burlington City Council
Mayor Weinberger
FROM: Meagan Tuttle, Comprehensive Planner
DATE: May 22, 2019
RE: Proposed CDO Amendment *ZA-19-07B*: Commercial Uses in the E-LM Zone (Banks)

Overview & Background

The proposed amendment emerged from a number of separate requests to City and the Planning Commission to consider allowing banks in the Enterprise-Light Manufacturing (E-LM) district. On two separate occasions, prospective tenants for the Maltex building on Pine Street, requested this change in order to establish a bank in the building. This use is not presently permitted anywhere in the E-LM.

This request, as well as a number of requests that have been approved in the past few years, relate to the long-standing concern that the E-LM standards are somewhat outdated, and utilize a one-size-fits-all approach despite the evolving nature and varying character of the district. This concern is one of the underlying factors that prompted the creation of the draft *planBTV: South End Master Plan*; a comprehensive update to the E-LM standards is one of the key recommendations of the draft plan. A comprehensive review of the district is likely in late 2019.

On January 29, 2019 the Planning Commission forwarded a proposed amendment to City Council which included this change and several others related to Industrial and Commercial uses in the E-LM. During the Ordinance Committee discussion on May 7, the Committee voted to divide this amendment into two parts: ZA-19-07A, which includes the bulk of the original proposal from the Planning Commission, and this amendment, ZA-19-07B, which addresses only the request to allow banks in the E-LM, along with a prohibition on drive-thrus. Amendment ZA-19-07B was referred to the City Council for public hearing and adoption. ZA-19-07A was subsequently referred to City Council for public hearing and adoption.

Recommended Amendment Details

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
----------------	---------------	----------------------

Purpose Statement & Summary

The purpose of the proposed amendment is to permit additional commercial uses in the E-LM zoning district—specifically to allow banks in the district as a use that supports and is complementary to a number of other uses that are located in the evolving South End district.

Proposed Amendments

To achieve the purpose identified above, the proposed amendment affects the following sections of the *Burlington Comprehensive Development Ordinance* (see attached amendments):

- Amend Sec. 4.4.3 to establish a limitation on drive thru's associated with uses in the E-LM
- Amend Appendix A- Use Table to permit banks in the E-LM district.

Relationship to Municipal Development Plan (planBTV)

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Proposed Future Land Use & Density

Currently, both general office and small retail uses are permitted in the E-LM district; banks are very similar in nature and impact to these uses. Therefore, this amendment is anticipated to have little to no effect on the proposed land use and densities for this area of the city in *planBTV* and *planBTV: South End*.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the availability of safe and affordable housing. Housing is not presently permitted in the E-LM, and the proposed amendment does not change this.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

The following chart summarizes the stage in the zoning amendment process, and recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff, upon request	Presentation to & discussion by Commission 11/27/2018	Approve for Public Hearing 11/27/2018	Public Hearing 1/9/2019	Approve & forward to Council 1/29/2019
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte 2/11/2019	Ordinance Committee discussion 5/7/2019	Recommend to Council as 19-07B 5/7/2019	Second Read & Public Hearing	Approval & Adoption
				Rejected

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Planning Department,
Planning Commission, Council
Ordinance Committee
Public Hearing Dates: _____

In the Year Two Thousand Nineteen

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE –
Commercial Uses in the E-LM Zone (Banks)
ZA #19-07B

First reading: _____
Referred to: _____
Rules suspended and placed in all
stages of passage: _____
Second reading: _____
Action: _____
Date: _____
Signed by Mayor: _____
Published: _____
Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Section 4.4.3, Enterprise Districts, and Appendix A-Use Table—All Zoning Districts, thereof to read as follows:

Sec. 4.4.3 Enterprise Districts

(a) – (c) As written.

(d) District Specific Regulations

1. Convenience Stores. As written.

2. Drive thrus are not permitted.

Appendix A—Use Table—All Zoning Districts—*See proposed changes on attached table.

** Material stricken out deleted.

*** Material underlined added.

lb/KS: Ordinances 2019/Zoning Amendment – ZA #19-07b Commercial Uses ELM (Banks), Sec. 4.4.3, Appendix A-Use Table—All Zoning Districts
5/7/19

ZA-19-07B: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC- RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC- RC	NAC-CR	E-AE	E-LM
***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC- RC	NAC-CR	E-AE	E-LM
***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC- RC	NAC-CR	E-AE	E-LM
***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	YN
***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***

1. – 31. As written.

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

Legend: As written.

Burlington Planning Commission

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



PUBLIC HEARING NOTICE

***Burlington Comprehensive Development Ordinance* ZA-19-04 Tees, Junkyards, and Cross Reference Correction ZA-19-09 Zoning Administrative Officer**

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, May 28, 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-19-04:** The purpose of this amendment is to make a number of technical corrections to relocate language regarding tree removal standards from Article 3 to Article 5, and eliminate references to these standards that are duplicative and/or superseded by Article 14; relocate the zoning permit exemption for tree removal in city parks from Article 4 to Article 3, and add "Civic" districts (created by Article 14) to those applicable districts exempt from a permit; delete Automobile Salvage/Junkyard definition, and create a new definition for Junkyards, amend the Vehicle Salvage Yard definition, and prohibit both within all zoning districts; and address an incorrect reference within Sec.6.2.2 (p).
- **ZA-19-09:** The purpose of this proposed amendment is to disjoin the Director of Planning and Zoning from the Zoning Administrative Officer (ZAO) and to clarify the appointment process of the ZAO consistent with the voter-approved charter change.

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

- **ZA-19-04:** The proposed amendment applies to all areas and zoning districts.
- **ZA-19-09:** The proposed amendment has no impact on geographic areas or zoning districts of the city.

List of section headings affected:

- **ZA-19-04:** The proposed amendment modifies *Sec. 3.1.2 (a) and (c)*; deletes *Sec. 4.4.6 (d) 2*, amends *Sec. 5.5.4*; amends *Article 13 Definitions*; amends *Appendix A- Use Table*; and amends *Sec 6.2.2 (p)*.
- **ZA-19-09:** The proposed amendment modifies *Sec 2.3.2*.

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>.

Department of Planning and Zoning

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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: April 29, 2019
RE: CDO Amendment ZA-19-04: Trees, Junkyards, and Cross Reference Correction

Overview & Background

This amendment proposes corrections to three separate elements of the *Burlington Comprehensive Development Ordinance* that were discovered through the routine administration of the ordinance related to tree removal standards, Junkyards and Automobile/Vehicle Salvage Yards, and a cross reference to Article 5.

At their September 6, 2018 meeting, the Ordinance Committee reviewed the following three proposed amendments to the ordinance, and each was forwarded to the Planning Commission with recommendation to approve.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
----------------	---------------	----------------------

Purpose Statement

The purpose of this amendment is to make a number of technical corrections to the *Burlington Comprehensive Development Ordinance*. These include, the relocation of language regarding tree removal standards from Article 3 to Article 5, and eliminating references to these standards that are duplicative and/or superseded by Article 14; the relocation of the zoning permit exemption for tree removal in city parks from Article 4 to Article 3, and the addition of "Civic" districts (created by Article 14) to those applicable districts exempt from a permit; creation of a new definition for Junkyards, deletion of Automobile Salvage/Junkyard definition, and amendment to the Vehicle Salvage Yard definition; and to address an incorrect reference within Sec.6.2.2 (p).

1. Tree Removal Standards- Changes to Articles 3, 4, and 5

The adoption of *Article 14, planBTV: Downtown Code*, affected the tree cutting provisions within the CDO. Sec. 3.1.2, *Zoning Permit Required*, (a) *Exterior Work* stipulates that tree removal of a certain degree requires the advance review and approval of the Development Review Board per the criteria in Article 6, *Part 2: Site Plan Design Standards*. Article 14 expressly supersedes Article 6 in the downtown form districts. As a result, reference to Article 6 is moot when considering tree cutting in the downtown form districts. Additionally, the actual standards for review of tree removal proposals are contained within the performance standards of Article 5, specifically Sec. 5.5.4, *Tree Removal*. Staff recommends

deletion of reference to Article 6 in the tree cutting provision of Sec. 3.1.2. The performance standards of Article 5: Part 5 expressly continue to apply within the downtown form districts. As reference to DRB review is made, staff proposes relocating that language to a more appropriate location in Sec. 5.5.4, *Tree Removal*.

One additional item related to tree cutting standards is the exemption under Sec. 4.4.6, *Recreation, Conservation, and Open Space Districts* (d) *District Specific Regulations*. Item 2 under this section exempts regular tree maintenance and removal in city parks from the requirement for a zoning permit. This exemption is more appropriately located with all other zoning permit exemptions under Sec. 3.1.2, *Zoning Permit Required* (c) *Exemptions*. Staff recommends deleting the exemption from Sec. 4.4.6 and relocating it under Sec. 3.1.2. Further, as Article 14, planBTV: Downtown Code, created a new district, Civic, which applies to city parks, a reference to this district is recommended to be added to this exemption.

2. Junkyards & Automobile/Vehicle Salvage Yards- Article 13 Definitions and Addition to Appendix A- Use Table

The CDO presently contains definitions for "automobile salvage/junkyard" and "vehicle salvage yard." Both address essentially the same thing but are not identical. Staff recommends deleting the less specific "automobile salvage/junkyard." Vehicle salvage yard is expressly targeted at junk vehicles. So as to keep automotive uses grouped together in *Appendix A – Use Table – All Zoning Districts*, the word "automobile" has been added to the term "vehicle salvage yard."

The more general "junkyard" was defined in the 1994 Zoning Ordinance but is not defined in the CDO. Outdoor storage of trash is addressed in Article III, Division 1 of the city code of ordinances. There are several ongoing situations with properties filled with junk not necessarily including junk vehicles. Including a cross reference to the applicable section within the city code of ordinances within the definition of Junkyard would be helpful in enforcing against such properties. (For reference, this section of the code of ordinances is attached after proposed changes to *Appendix A- Use Table*.) The Ordinance Committee recommended adding such a definition.

Neither "Junkyard" nor "Automobile/Vehicle Salvage Yard" are included in *Appendix A – Use Table – All Zoning Districts*. In the 1994 Zoning Ordinance, "auto/junk/salvage yard" was included in the Use Table and was allowed only in the Enterprise Zone. The Committee recommended incorporation of the terms into the *Use Table*, and to prohibit them in all zones.

3. Cross Reference Correction

This item is simply a correction to a cross reference within Sec. 6.2.2 (p), to accurately point to the Performance Standards of Article 5.

Proposed Amendments

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

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

- Amend Sec. 3.1.2 Zoning Permit Required to relocate existing permit exemption in Article 4 for city parks and add Article 14 "Civic" district to exempted districts, and remove reference to Article 6 standards.

Sec. 3.1.2, Zoning Permit Required

(a) Exterior Work:

1-8 *As written.*

9. Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period. ~~Such land development shall require the advance approval of the DRB under the criteria set forth in Article 6, Part 2 hereof before a zoning permit may be issued.~~

11 – 20 *As written.*

(b) Interior Work:

As written.

(c) Exemptions

1-2 *As written.*

3. Within any city park within an RCO zone or Civic district, regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding.

4-15 *As written, except renumbered to accommodate new number 3.*

- Amend Sec. 4.4.6 Recreation, Conservation and Open Space Districts to remove the relocated existing permit exemption for city parks.

Sec. 4.4.6, Recreation, Conservation and Open Space Districts

(a) – (c) *As written.*

(d) District Specific Regulations

The following regulations are district-specific exemptions, bonuses, and standards unique to the RCO districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above in Tables 4.4.6-1 and 4.4.6-2.

1. Lot Coverage for Agricultural Structures.

The maximum allowable coverage may be increased to ten percent (10%) in the RCO-Agricultural District for agricultural structures not otherwise exempted from zoning review under V.S.A. 24 § 4413 (d), subject to approval by the DRB.

2. Exemptions for Tree removal and Turf Maintenance in City Parks.

Regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseedling shall be exempt from the requirement to obtain a zoning permit.

3. 2. Exemptions for low impact design (LID) stormwater management techniques

Due to the unique nature and critical importance of City Parks in the City's overall green infrastructure, LID stormwater management techniques (such as pervious pavement and asphalt, green roofs and rain gardens etc...) shall be credited against lot coverage as determined by the City's Stormwater Administrator pursuant to the requirements of Burlington Code of Ordinances Chapter 26.

4. 3. Pervious surface materials not included in impervious lot coverage calculations

Pervious surface materials, such as woodchips and clay or dirt playfields in City Parks shall not be included in impervious lot coverage calculations.

- Amend Sec 5.5.4 Tree Removal to add reference to DRB review of requests for tree removal to preface the performance standards list

Sec. 5.5.4, Tree Removal

Zoning permit requests for tree removal are subject to DRB review per the following criteria.

(a) – (b) *As written.*

- Amend Article 13 Definitions for Junkyards and Automobile/Vehicle Salvage Yards

Automobile Salvage/Junkyard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of automobile parts from automobiles that are not in running condition.

Junkyard: Any place of outdoor storage or deposit that is maintained, operated, or used for storing, keeping, processing, buying, or selling garbage, trash, appliances, and/or furniture as articulated under Article III, Division 1, Sec. 18-111 of the City Code of Ordinances. Junkyard does not include a solid waste facility or a vehicle salvage yard as defined in this ordinance.

Automobile/Vehicle Salvage Yard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of machinery, parts, or vehicles not in running condition. Three or more unregistered vehicles are considered an automobile/vehicle salvage yard. An automobile/vehicle salvage yard does not include automobile/vehicle repair as defined in this Article.

- Amend Appendix A- Use Table to add the above definitions as prohibited uses in all districts.

See attached Appendix A

- Amend *Sec 6.2.2 (p)* to correct cross reference to Article 5.

Sec. 6.2.2, Review Standards

(a) – (o) *As written.*

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 5 Performance Standards.

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Compatibility with Proposed Future Land Use & Density

The proposed amendment has no impact on the proposed future land uses and densities within the *Municipal Development Plan (planBTV)*.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the availability of safe and affordable housing.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff, with PC OC recommendation	Presentation to & discussion by Commission 1/9/2019	Approve for Public Hearing 1/9/2019	Public Hearing 5/28/2019	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption
				Rejected

Proposed ZA-19-04 Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ^l	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N ³⁰	N	N ³⁰	N ³⁰	N ³⁰	N	N	N
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	N	N	N	N	Y	Y	Y	N	N	N	N	N	N		
Attached Dwellings - Duplex	N	N ¹	N	N	Y	CU ²	Y	Y	N	Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	CU	N	Y	Y	N	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use ²⁶	N	N ¹	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Assisted Living	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Bed and Breakfast ^{4, 6}	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	N	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	N	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	N	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Dormitory ⁵	N	N	N	N	CU	N	N	N	N	N ²⁵	CU	CU	N	N	N
Emergency Shelter ³¹	N	N	N	N	N	CU	CU	CU	N	CU	CU	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Historic Inn (See Sec.5.4.2)	N	N	N	N	CU	CU	CU	CU	N	CU	Y	Y	Y	N	N
Mobile Home Park	N	N	N	N	N	CU	CU	N	N	N	N	N	N	N	N
Sorority/Fraternity ⁵	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	CU
Animal Grooming	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	CU
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	N	CU	CU	CU	CU	Y	Y
Appliance Sales/Service	N	N	N	N	N	N	N	N	N	Y ²⁴	Y	Y	Y ²⁴	N	Y
Aquarium	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y

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	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ¹	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Auction House	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU
Automobile Body Shop	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	CU	Y	Y	Y	N	Y
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	N	Y
Automobile/Vehicle Salvage Yard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU
Bakery	N	N	N	N	N	N ²²	N ²²	CU ¹³	N	Y	Y	Y	Y	Y	Y
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Bar, Tavern	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y	Y	CU	Y	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y
Billiard Parlor	N	N	N	N	N	N	N	N	N	CU	Y	CU	Y	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	N	N	Y
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	Y	N	N	Y
Boat Storage	N	N	CU	N	N	N	N	N	N	N	CU	CU	N	N	Y
Bowling Alley	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Building Material Sales	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	Y	N	N	Y
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ¹³	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	CU
Camp Ground	N	Y	Y	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N	N	CU	Y	CU	N	CU
Cemetery	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU	N	CU ¹⁴	Y	N	Y ¹⁴	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	N	CU	CU	N	CU	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	N	Y	Y	Y	Y	N	CU
Community Garden	N	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
Conference Center	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	N	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ¹²	N	Y ¹²	Y	Y	Y ¹²	N	Y
Convention Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	N	N	N	N	N	N	N

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Crematory	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
Daycare - Large (Over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ¹⁷
Daycare - Small (up to 20 children) (See Sec.5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ¹⁷
Daycare – Family Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y
Distribution Center	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Service	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y ²⁴	Y	Y	Y ²⁴	N	CU
Film Studio	N	N	N	N	Y	N	N	N	N	N	CU	Y	CU	N	CU
Fire Station	N	N	Y	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Food & Beverage Processing	N	N	N	N	N	N	N	N	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	Y	Y
Fuel Service Station ⁹	N	N	N	N	N	N	N	N	N	CU ¹¹	Y ¹¹	Y	N	N	N
Funeral Home	N	N	N	N	N	CU ⁷	CU ⁷	CU ⁷	N	CU	Y	Y	N	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	N	CU ²⁴	Y	Y	N	Y	Y
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N ²²	N ²²	N ²²	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	N	Y
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	CU ¹⁸	CU	CU	N	CU ¹⁷
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU	N	Y	Y	Y	Y	CU	CU ²⁸
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁸
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU	N	CU	Y	Y	Y	N	CU
Health Studio	N	N	N	N	Y	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	Y
Hospitals	N	N	N	N	CU	N	N	CU	N	N	N	N	N	N	N
Hostel	N	N	N	N	Y	N	N	CU	N	Y	Y	Y	Y	N	N
Hotel, Motel	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	N	Y	N	N
<u>Junkyard</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Laundromat	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y ¹³	Y	Y	Y	N	Y
Library	N	N	N	N	Y	CU	CU	Y	N	Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	N	N	CU ¹⁰	Y	N	N	Y

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USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Machine/Woodworking Shop	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU ²⁴	CU	Y
Manufacturing	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	Y
Manufacturing - Tour Oriented	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	CU
Marina	N	N	Y	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	N	CU	Y	Y	N	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (See §5.4.11)	N	N	N	N	N	N	N	N
Museum–Small < 10,000 sqft	N	CU	CU	CU	Y	CU ¹³	CU ¹³	CU ^{8,13}	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	Y ²³
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	N	CU	CU ²³
Office - General	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	Y
Office - Medical, Dental	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	Y
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	N	N	N	N	N	N	CU ¹¹	N	N	Y
Operations Center - Trucking ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹¹	N	CU ¹¹	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	CU
Parking Garage ⁹	N	N	N	N	Y	N	N	CU	N	CU	Y	N	CU	N	CU
Parking Lot ⁹	N	N	N	N	N	N	N	N	N	N	CU	N	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	CU	Y	N	CU	N	CU ²⁷
Performing Arts Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 2)	CU	CU	CU	Y	N	Y
Pet Store ¹⁰	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N ²²	N ²²	N	N	Y	Y	Y	Y	N	Y
Photography Lab	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	CU	Y
Police Station - Central	N	N	N	N	CU	N	N	N	N	Y	Y	Y	N	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	Y
Post Office - Local	N	N	N	N	Y	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	Y

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Printing Shop	N	N	N	N	CU	N ²²	N ²²	N	N	CU	Y	Y	Y	N	Y
Public Transit Terminal	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	Y	CU	Y
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	N	N	N	N	N	CU ¹¹	Y ¹¹	N	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	CU	CU
Recording Studio	N	N	N	N	N	N	N	CU	N	CU	CU	Y	Y	N	Y
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	(See Sec.4.4.1(d) 2)	N	Y	CU	N	N	CU
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	CU	N	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	Y	CU	N	N
Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	N	N	CU	CU	N	N	Y
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	CU	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	CU ²⁴	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	Y ¹³
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	N	Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	N	CU	CU	CU	CU	N	N
School – Preschool Large (over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ¹⁷
School – Preschool Small (up to 20 children) (see Sec. 5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ¹⁷
School - Primary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	N	CU	N	N	CU	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	N

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Warehouse	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	Y ¹⁵	N	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N	N	CU ¹⁵	CU ¹⁵	N	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	N	Y	CU	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.

2. Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1.

3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.

4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.

5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.

6. Must be owner-occupied.

7. Must be located on a major street.

8. Small daycare centers and small preschools in the RCO zones shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.

9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.

10. Exterior storage and display not permitted.

11. All repairs must be contained within an enclosed structure.

12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.

13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.

14. Such uses not to exceed ten thousand (10,000) square feet per establishment.

15. Excludes storage of uncured hides, explosives, and oil and gas products.

16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.

17. Allowed only as an accessory use.

18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.

19. [Reserved].

20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.

21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.

22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.

23. Allowed only on properties with frontage on Pine Street.

24. Such uses shall not exceed 4,000 square feet in size.

25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.

26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.

27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.

28. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

29. Must be fully enclosed within a building.

30. New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.

31. See special use standards of Sec. 5.4.13, Emergency Shelters.
- Legend:

Y

CU

N

Permitted Use in this district

Conditional Use in this district

Use not permitted in this district
- Abbreviation

Zoning District

RCO – A

RCO – RG

RCO – C

I

RL/W

RM/W

RH

DW-PT

NMU

NAC

NAC-RC

NAC-CR

E-AE

E-LM

RCO - Agriculture

RCO – Recreation/Greenspace

RCO - Conservation

Institutional

Residential Low Density, Waterfront Residential Low Density

Residential Medium Density, Waterfront Residential Medium Density

Residential High Density

Downtown Waterfront-Public Trust

Neighborhood Mixed Use

Neighborhood Activity Center

NAC – Riverside Corridor

NAC – Cambrian Rise

Enterprise – Agricultural Processing and Energy

Enterprise – Light Manufacturing

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

Excerpt of City Code of Ordinances pertaining to proposed amendment ZA-19-04

Article III, Division 1, Sec. 18-111 for reference only:

18-111 Accumulation of garbage, trash, abandoned vehicles, appliances and furniture on any property within the city prohibited.

- (a) It shall be unlawful for any landowner, and person leasing, occupying, or having charge or possession of any property in the city to keep, maintain, or deposit on such property any materials or items enumerated below, unless they are in compliance with this section or otherwise allowed by law. "Property" shall include the abutting area known as the "greenbelt" held to be that area of a public street located between the roadway edge and the sidewalk, or, if no sidewalk exists, between the roadway edge and the adjacent property line. (Charter §§ 48(6), 48(8), 48(23) and 211.)
- (b) The following materials or items shall not be stored, kept, maintained or deposited on the property: concrete, asphalt, construction debris, brick foundations and flat work, unless being used for a building project which is in compliance with all city ordinances.
- (c) The following materials or items shall not be stored, kept, maintained, deposited or allowed to remain outdoors and in plain view in the front yard of any property: (1) appliances such as refrigerators, stoves and microwave ovens; (2) sinks, toilets, cabinets, or other fixtures or equipment; (3) abandoned, discarded, or broken furniture; (4) furniture not constructed for outdoor use; and (5) lumber and other construction material. Lumber and other construction material is exempted from this provision if it is covered and stored neatly and is being used in conjunction with a building project in compliance with all city ordinances. Rubbish, junk, refuse, garbage, scrap metal, tin cans and recyclables shall only be allowed to remain outdoors and in plain view in the front yard of any property for the purpose of recycling and solid waste pickup for disposal and only if they are neatly kept, stored, maintained, or deposited in accordance with all minimum housing, health and solid waste ordinances and regulations.
- (1) Owners of rental units with ten (10) or more units on a property shall be required to have covered wheeled recycling containers with a minimum capacity of sixty-five (65) gallons (hereinafter "toters") for curbside recycling pick up or an approved equivalency on or before October 1, 2013. At least one (1) such a container shall be provided for every three (3) units or portion thereof.
- (2) Owners of rental units with eight (8) or nine (9) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before September 1, 2017. At least one (1) such container shall be provided for every three (3) units or portion thereof.
- (3) Owners of rental units with six (6) or seven (7) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before March 1, 2018. At least one (1) such container shall be provided for every three (3) units or portion thereof.
- (4) Owners of rental units with two (2) to five (5) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before September 1, 2018. At least one (1) such a container shall be provided for every three (3) units or portion thereof.
- (d) Subject to the limitations in this subsection, materials or items referred to in subsection (c) of this section may be kept on other portions of the property if they are stored, kept outdoors in plain view, maintained or deposited neatly, are covered, do not obstruct fire escapes, means of egress, fire lanes, or emergency services access, and do not pose a danger to invitees, including utility, delivery and postal service employees and police officers, firefighters, city and state officials, and public health and safety officials who may need to be present on the property in emergency situations, routine inspections or other lawful reasons. Materials or items referred to in subsection (c) of this section should not be stored, deposited, kept or maintained in violation of zoning setback regulations or cover a footprint of in excess of fifty (50) square feet, with a height limitation of six (6) feet (11.11 cubic yards). Two (2) such storages shall be allowed on the property. Rubbish, junk, refuse and garbage, scrap metal, tin cans, and recyclables shall be neatly kept, stored, maintained or deposited on property other than the front yard in accordance with all minimum housing, health, zoning and solid waste ordinance regulations.
- (e) It shall be unlawful to keep, maintain, store or deposit any inoperative, abandoned or dismantled motor vehicles on any property in violation of Chapter 20, Article VI.
- (f) Trailers and boats shall be neatly stored in accordance with zoning ordinances and regulations and in a manner which does not obstruct fire escapes, means of egress, fire lanes, or emergency services access and which does not pose a danger to invitees, including utility, delivery and postal service employees and police officers, firefighters and other public health and safety officials who may need to be present on the property in emergency situations, routine inspections or other lawful reasons.

(g) A copy of all orders issued pursuant to this section shall be posted by the enforcement officer or his/her delegate or inspector in a conspicuous place in a common area of the dwelling or building in which the dwelling unit is located. Such notice shall be in addition to the notice required under Section 18-26.

(h) Notwithstanding Section 18-31(a)(1), a second or subsequent violation of this section during a twelve (12) month period shall be deemed to be a civil offense and shall be punishable by a fine of two hundred dollars (\$200.00) and a waiver fine of one hundred fifty dollars (\$150.00).
(Ord. of 3-22-99; Ord. of 9-10-12(2); Ord. of 12-1-14(1); Ord. of 6-5-17; Ord. of 8-7-17(1))

Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401
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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
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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: April 29, 2019
RE: CDO Amendment ZA-19-09: Zoning Administrative Officer

Overview & Background

In anticipation of the Planning & Zoning Department restructuring associated with the City's permit reform effort, the City Attorney has recommended that Sec. 2.3.2, *Appointment*, of the CDO be amended to disjoin the director of planning and zoning position from that of the zoning administrative officer. At their October 4, 2018 meeting, the Ordinance Committee concurred with the recommendation.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of this proposed amendment is to disjoin the director of planning and zoning from the zoning administrative officer within the Burlington Comprehensive Development Ordinance.

Proposed Amendments

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

Sec. 2.3.2 Appointment

~~The director of planning and zoning shall serve, ex officio, as the city's zoning administrative officer (ZAO or administrative officer), and upon the recommendation of the planning commission shall be appointed by the~~ mayor with approval of the majority of the full city council ~~legislative body~~ for a term of up to three years. ~~The ZAO may be removed for cause at any time by the legislative body after consultation with the planning commission.~~

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Compatibility with Proposed Future Land Use & Density

The proposed amendment has no impact on the proposed future land use and density goals contained within planBTV (the City's Municipal Development Plan).

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the provision of safe and affordable housing.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff	Presentation to & discussion by Commission 4/9/2019	Approve for Public Hearing 4/9/2019	Public Hearing 5/28/2019	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption
				Rejected

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Layne Darfler, Planning Technician



TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: May 23, 2019
RE: CDO Amendment ZA-19-XX: Inclusionary Zoning

Overview & Background

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. The amendment articulates inclusionary standards of off-campus student housing. Furthermore, the amendment specifies by-right development "bonuses" associated with inclusionary housing and eliminates impact fee and minimum off-street parking requirements. Lastly, the amendment includes a number of procedural clarifications.

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. The report contained some initial recommendations. The 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. The Planning Commission is now tasked with amending the inclusionary zoning language in the CDO to incorporate the recommendations of the joint committee.

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.

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

- 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- *Transfer IZ administration from Housing Trust Fund manager to new Permitting & Inspections Department.* 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 minimum off-street parking and impact fee requirements for IZ units.* 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.
- Recommendation 12- *Develop ordinance language for meeting IZ requirements for institutional student housing projects outside of the institutional zones.* See changes to Sec. 9.1.19.

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 increases-* 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 v4.0_updated for 5-28-2019 meeting

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.

(e) (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. ~~50% Waiver of Fees:~~ Fifty percent (50%) of the fees will be waived for ~~that portion of a residential~~ qualifying units in a project that meets 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. ~~100% Waiver of Fees:~~ One hundred percent (100%) of the fees will be waived for ~~that portion of a residential~~ qualifying units in a project that initially sells or rents for a price that is affordable for households earning less than 50% of median income and that remains continually affordable as defined above.

~~(d)~~(e) Community Garden Waivers:

As written.

**ARTICLE 4. ZONING MAPS AND DISTRICTS
PART 4: BASE ZONING DISTRICT REGULATIONS**

Sec. 4.1.1 Intent – Sec 4.4.4 Institutional District

As written.

Sec. 4.4.5 Residential Districts

(a) – (c) As written.

(d) District Specific Regulations:

1 - 6 As written.

7. Residential Development Bonuses

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
<u>1. Adjusted for development with inclusionary housing units per Sec. 8.1.8 (c).</u>			
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
<u>1. Adjusted for development with inclusionary housing units per Sec. 8.1.8 (c).</u>			
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~~^{ies} 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 or twenty (20) or more rooming units in a co-living project 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 when~~An 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 projects~~ 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.

Commented [SG1]: Sharon Bushor comment. Reflects the intent, but could be construed as a policy change from the literal interpretation of present wording.

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%
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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, 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, $46 \times .15$ (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 $\times .15 = 3$ units shall be Inclusionary units).

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 and also including the percentage of residents within the project qualifying under the standards for inclusionary housing. In cases where the 15% inclusionary requirement cannot be met, the percentage requirements for inclusionary units shall be met as noted above. 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 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 9.1.42 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 (705%) 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 tables:

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 120' height set back 10' along street facade ¹	92%
RM, RM-W	20%	25	n/a	48%
RM-W		25	120' height set back 10' along street facade¹	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+120' height set back 10' along street facade	92%
NAC-CR		n/a	0.5FAR+120' height set back 10' along street facade	72%

1. In the RH and RM-W residential zones an additional 120 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%

(1) Design requirements for Additional density, intensity, and/or height:

- i. There are a number of ways that building shape, articulations, and choice of materials can be used to reduce the perceived height and mass of buildings, and ensure a high quality of design that complements the character of a project's surrounding area. After consultation with the Design Advisory Board, the Development Review Board shall evaluate any proposal seeking to increase units per acre, lot coverage, and height per the following design criteria:

i. The proposed building presents a design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline; reinforces opportunities for establishing points of reference for visual orientation; and, provides visual interest and human scale at the

~~pedestrian level through the use of a variety of scales, materials, fenestration, massing, or other architectural design techniques.~~

~~ii. Step backs, horizontal and vertical variation, selection of materials, and/or other architectural design techniques are used to reinforce the street wall, create transitions from buildings of a smaller mass and height, and reduce the perceived height and mass of upper stories from the street level; and,~~

~~iii. Upper story proportions of the building are oriented and tapered and/or separated into separate masses in order to retain sky view between individual building elements from the public thoroughfare.~~

~~ii. The DRB may condition the approval of additional units per acre, lot coverage, and height by reducing the building(s') massing or requiring alterations to design features, but in no case shall the maximum number of units, lot coverage, or height be reduced.~~

- (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 by right 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 by right 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,
 - 2.3. 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, 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;~~

Commented [MT2]: Question was raised about whether or not this is appropriate to have in here at the 5/14 meeting.

(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 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:

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

Burlington Planning Commission

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



To: Kurt Wright, Council President
Burlington City Council
Mayor Miro Weinberger
From: Andrew Montroll, Chair, Burlington Planning Commission
DATE: May 31, 2019
RE: Annual Report of the Burlington Planning Commission, Fiscal Year 2019 (July 1, 2018-June 30, 2019)

Please see the enclosed FY 2019 Annual Report of the Burlington Planning Commission. This year, in addition to its routine work on amendments to the *Comprehensive Development Ordinance*, the Planning Commission completed an update to *planBTV: Comprehensive Plan*—the City's Municipal Development Plan—and to *planBTV: South End Master Plan*.

Thank you for your attention to the work of the Planning Commission. Please feel free to contact me with any questions. The Commission looks forward to our continued collaboration and progress on these and many other matters facing the City.

Andrew Montroll, Chair

Emily Lee

Bruce Baker, Vice Chair

Harris Roen

Yves Bradley

Jennifer Wallace-Brodeur

Alexander Friend

draft

FY 2019 BURLINGTON PLANNING COMMISSION ANNUAL REPORT

PREPARED FOR:
BURLINGTON CITY COUNCIL
MAYOR MIRO WEINBERGER



Image Credit: Megan Humphrey

PLANNING COMMISSION OVERVIEW

Planning Commission Membership

The Planning Commission is composed of seven Commissioners, appointed to staggered terms of four years. Each Commissioner participates on at least one Standing Committee, and some Commissioners also participate on ad-hoc committees established to facilitate special projects. The FY 2019 membership of the Planning Commission and participation in Committees is listed below; a record of attendance for the full Commission meetings is included in **Appendix A**.

Andy Montroll, *Chair, Executive Committee, (Chair)*
Bruce Baker, *Vice-Chair, Executive Committee, Ordinance Committee, Inclusionary Zoning Working Group, Permit Reform Advisory Committee*
Yves Bradley, *Executive Committee*
Alexander Friend, *Ordinance Committee (Chair)*
Emily Lee, *Long Range Committee*
Harris Roen, *Long Range Committee (Chair)*
Jennifer Wallace-Brodeur, *Long Range Committee*

Planning Commission Duties

The Burlington Planning Commission facilitates the optimal and sustainable development of Burlington's built and natural environment by engaging the community in long-range, comprehensive City-wide land use planning; advising the Mayor and City Council on matters pertaining to land use planning and development in general; reviewing and developing land development ordinances for approval by the City Council; providing oversight to the Department of Planning & Zoning (DPZ); providing comments and feedback, as necessary, to the Chittenden County Regional Planning Commission; and other functions as set forth in 24 V.S.A. §4325.

In short, the Planning Commission dedicates a tremendous amount of time to creating and implementing planBTV—also known as the Municipal Development Plan—which includes specific plans for areas and important issues in the City.

FY 2019 Meetings

Full Commission meetings are typically held twice monthly, and usually last 1.5 to 2 hours. The Commission canceled some of its regularly scheduled meetings during 2018 in order to hold neighborhood workshops for the *planBTV: Comprehensive Plan* update, and scheduled several special meetings in the fall to discuss recommendations related to the Permit Reform Initiative. The Commission's Executive Committee meets quarterly, the Ordinance Committee meets monthly, and the Long-Range Committee meets as needed to guide special planning projects.

FY19 PROJECTS & POLICY WORK

planBTV: Burlington's Comprehensive Plan

In February 2018, the Planning Commission and Planning Department began work on the 2019 update to *planBTV*, Burlington's Comprehensive Plan. Often referred to as "the Municipal Development Plan," *planBTV* is the long-range plan for land use and development across the City. This plan has been updated every 5 years since the 1970's, to ensure that the policies and actions continue to guide the work of the City regarding land use and development according to the vision of Burlington as a sustainable core community in our region.

The Planning Commission first approved a "Blueprint," which provided key goals and objectives for the update. This guide noted that the update was not about creating a new vision for Burlington. Instead, the Planning Commission's main objective was to update and prioritize the policies and actions that guide the implementation of the plan's long-standing vision. This included reviewing what had been done since the last plan update, identifying the gaps to address issues and trends that weren't previously included in the plan, and clarified the role and relationship of the *Municipal Development Plan* to other *planBTV* studies (e.g. *planBTV: Downtown & Waterfront Master Plan* and *planBTV Walk/Bike*).

In May of 2018, the Commission canceled their regularly-scheduled meetings to host a series of community workshops and to attend other events to talk with residents about big issues and emerging trends that would influence the plan's update. The Commission then worked over the summer and fall of 2018 to develop, review, hear public feedback on, and revise sections of the updated draft plan. In the late fall 2018, a complete draft of the updated plan was shared for the community's review and discussion. The process to draft the plan was iterative, and Commissioners dedicated a great amount of time outside of regularly scheduled meetings to assist staff in collecting input and communicating about the plan update. The Planning Commission's work culminated in a December 2018 workshop and public hearing. Following this public hearing, the Planning Commission and staff made a series of additional changes and referred the draft plan to City Council with a recommendation of adoption. City Council received presentations on the draft plan and held its public hearings during January to March 2019. Following the second public hearing on March 25, 2019, the plan was unanimously re-adopted by the City Council, and will be the first update to be in effect for 8 years.

The most significant change in the 2019 update was in how the plan's policies and actions are organized, and how it references other plans and studies. The new framework emphasizes the interrelatedness of the issues that the plan's policies address, and strategically incorporates data, maps, and other details that help communicate the plan's vision and measure its implementation. Additionally, the plan is more succinct than its previous versions, including higher-level policies and actions regarding a wide range of issues, and referencing area-wide and topical plans that provide a greater level of detail and specificity about how certain issues will be addressed.

planBTV: South End Master Plan

Following the release of a draft of *planBTV: South End Master Plan* in 2015, the Planning Commission's Long Range Planning Committee reviewed each section of the draft plan, and public comments on these elements, and provided direction to the Department on revisions. The Long Range Committee spent significant time in 2016 and 2017 discussing these revisions. In May 2018, to coincide with the process to update the city-wide *Municipal Development Plan*, a revised draft of the plan was presented to the community and posted online for comment. The Planning Commission made final modifications to this plan following the December 2018

public hearing, and referred it to the City Council with a recommendation of adoption by its reference in the *planBTV: Comprehensive Plan* update. Following the March 25, 2019 Council Public hearing, the plan was approved and adopted by reference into *planBTV*.

Comprehensive Development Ordinance Amendments

The Planning Commission and its Ordinance Committee reviewed and discussed 10 proposed amendments to the *City's Comprehensive Development Ordinance* (CDO) in FY 2019. The Commission moved 9 of these proposed amendments for adoption by City Council. 2 of these amendments have been adopted by Council and are now in effect ([ZA-19-01](#) and [ZA-19-05](#)). An additional 3 amendments were adopted and became effective this year, all of which had been referred by the Planning Commission in FY 2018. The following is a complete list of amendments which have been recommended by the Planning Commission to the City Council in FY 2018 and 2019, and their current status.

ZA-18-04 Density Calculations: The purpose of this amendment was to address a discrepancy in the CDO regarding calculation of permitted density on a site. After several iterations, the amendment was expanded to ensure the language was consistent with Article 13 definitions, and to update methodology for calculating non-residential density. The Planning Commission referred this amendment to City Council with recommendation; however, the amendment expired before it could be acted upon by City Council. (See [ZA-19-05](#).)

ZA-18-05 Article 3 Amendments: The purpose of this amendment was to update Article 3 relative to zoning permit release, timelines for pending permit applications, permit extensions, and permit duration. The amendment was adopted by City Council and became effective on December 12, 2018.

ZA-18-06 Article 8 Bike Parking: The purpose of this amendment was to modify bike parking regulations in Article 8 and in Table 8.2.5-1. These changes increase the required ratios of bicycle parking for selected uses to more closely align with the APBP guidelines, and establish a payment in lieu option for required bike parking. The amendment was adopted by City Council and became effective on December 12, 2018.

ZA-18-07 Conditional Use Exemptions: The purpose of this amendment was to eliminate the Conditional Use exemption from Section 3.5.3 Exemptions, which was added to this section in 2015. This is to ensure that change of use and rehabilitation of structures involving conditional uses will still be subject to the closer review scrutiny per the conditional use standards of Section 3.5.6. The amendment was adopted by City Council and became effective on February 27, 2019.

ZA-18-08 Form District 5 Boundaries: The purpose of this proposed amendment is to modify the boundaries of Form District 5 to include additional properties located along the boundary of the current district. Properties proposed for inclusion are currently zoned Residential High Density or Residential Medium Density, and have been evaluated for their current and future potential use and intensity. These have been recommended for inclusion in Form District 5 in order to encourage the appropriate type and intensity of future infill or redevelopment, and to enable greater flexibility for expansion or reuse of existing uses and structures by reducing non-conformities. The Commission held a public hearing on this amendment on June 12, 2018 and referred it to Council for consideration. Final Council action on this amendment is anticipated in the coming year.

ZA-19-01 Grocery in E-LM: The purpose of this amendment was to expand the allowable size for grocery stores in the Enterprise Light Manufacturing zoning district from 30,000 sq.ft to 35,000 sq.ft. The amendment was referred by the Planning Commission in August 2018, and was adopted by City Council and became effective on December 12, 2018.

ZA-19-02 Additional Residential Unit in RL: The purpose of this proposed amendment is to remove the provision for an additional unit to be added to an existing multi-family structure within the Residential-Low Density zoning district. This amendment was referred by the Planning Commission in August 2018. Council action on this amendment is anticipated in the coming year.

ZA-19-03 Parking Amendments: The purpose of the proposed amendment referred by the Planning Commission was to add parking requirements for Art Gallery/Studio uses, align parking requirements for small daycares/preschools with those of large daycares/preschools, to allow tandem parking for all dwelling units and to clarify its arrangement when used for multi-family structures, and allow parking within a front yard setback in a driveway when there is room for at least one parking space beyond the setback. This amendment was referred by the Planning Commission in August 2018, and was subsequently modified by the Council Ordinance Committee to remove all restrictions on front yard parking. Council action on this amendment is anticipated in the coming year.

ZA-19-04 Trees, Junkyards, Cross Reference: The purpose of this proposed amendment is to 1) relocate tree cutting standards and provisions for exemptions from these standards within the CDO to eliminate unintentional conflicts in the ordinance, 2) to update definitions related to Junkyards and Auto/Vehicle Salvage Yards per the City's Code of Ordinances, and 3) to correct a cross reference. **The Planning Commission has scheduled a Public Hearing on this amendment on May 28, and Council action is anticipated in the coming year.**

ZA-19-05 Density Calculations: See ZA-18-04. This amendment revived ZA-18-04 upon its expiration. The amendment was referred by the Planning Commission in November 2018, and was adopted by City Council and became effective on February 27, 2019.

ZA-19-06 Article 7: Signs: The purpose of this proposed amendment is to update the city-wide sign regulations to both modernize the standards and respond to recent US Supreme Court decisions regarding content neutrality. The amendment is content-neutral and form-based, and absorbs two related sections of the municipal code (Ch5, Art 5 – Illuminated Signs, and Ch 27, Art 3 – Projections over the Sidewalk) in order to improve coordination and remove redundancy and confusion. The Planning Commission referred this amendment to the Council with recommendation in November 2018. Council is expected to take action on this amendment in the coming year.

ZA-19-07 Commercial Uses in E-LM: The purpose of this proposed amendment is to permit additional uses in certain parts of the E-LM zoning district in a way that is consistent with the vision for the South End as articulated in *planBTV: South End Master Plan*. This includes permitting banks, modifying the limitations on performing arts centers, creating new R&D and technical office uses, and establishing a requirement that a majority of the gross floor area on a lot south of Home Avenue be industrial/commercial/warehouse/R&D/arts and similar uses. The Planning Commission referred this amendment to the Council with recommendation in January 2019. City Council's Ordinance Committee modified this amendment, and separated it into two parts: ZA-19-07A Commercial Uses in the E-LM and ZA-19-07B Commercial Uses in the E-LM (Banks). Council is expected to take action on these amendments in the coming year.

ZA-19-09 Zoning Administrative Officer: The purpose of this proposed amendment is to disjoin the director of Planning and Zoning from the Zoning Administrative Officer (ZAO), and to reflect the approved charter change regarding the appointment process for the ZAO in the future. **The Planning Commission has scheduled a Public Hearing on this amendment on May 28, and Council action is anticipated in the coming year.**

ZA-19-10 Inclusionary Zoning: The purpose of this proposed amendment is to make a series of changes to the Inclusionary Zoning requirements. Recommended changes were forwarded to the Planning Commission following a consultant review, working group, and Council committee. The Planning Commission has scheduled a Public Hearing on this amendment on **DATE**, and Council is expected to take action on this amendment in the coming year.

Other Amendments Considered by the Commission

ZA-19-08 Dwelling Unit Definition: The Planning Commission received a recommended amendment from the Planning & Zoning and City Attorney's staff regarding language to clarify the term "dwelling unit" in the CDO. The amendment proposed to replace references to "family" with "residential" in various definitions of dwelling units, while leaving intact the term "family" and the associated occupancy limits on unrelated adults which apply only in residential zones. This proposal prompted the Commission to request additional information from the Department regarding the effect that the occupancy limits would have on the housing stock in other parts of the city, including mixed-use and institutional zoning districts. This item is expected to be discussed further in the coming year.

OTHER COMMISSION AND STAFF ACTIVITIES

Bruce Baker represented the Planning Commission on two ad-hoc committees this year. The Inclusionary Zoning Working Group reviewed and forwarded to Council a series of recommendations regarding a consultant's review of Burlington's Inclusionary Zoning Ordinance and Program. The Permit Reform Advisory Committee met monthly to discuss efforts being undertaken by the Planning Department, Code Enforcement Office and DPW's Inspection Services Division to improve the City's development permitting process. These recommendations ultimately led to the city advancing a proposal to create a new Permitting and Inspections department, which was approved by the Burlington voters in March 2019.

During several of its meetings, the Planning Commission offered its input to Councilors and City Staff regarding this proposal. This new department is anticipated to include the current planning functions of the Planning & Zoning Department (e.g. zoning permits, administration of the CDO), along with building permits and inspections and enforcement functions of the Department of Public Works and Code Enforcement Office respectively. The Planning Commission also weighed in on a proposal to merge the long-range planning functions of the Planning & Zoning Department with the Community & Economic Development Office as it undergoes restructuring as well. The proposal to merge Planning and CEDO was ultimately not advanced. It is anticipated that activities related to the restructuring of these departments will begin in the coming fiscal year.

Andy Montroll continued to serve as the Burlington representative on the Chittenden County Regional Planning Commission. Andy was also the recipient of the Northern New England Chapter of the American Planning Association's 2018 Citizen Planner of the Year award (following his receipt of the same award from the Vermont Planners Association in April 2018). Andy was selected for this award not only for his nearly 25 years of public service as a City Councilor, Planning Commissioner, and CCRPC Commissioner, but particularly for his leadership on the Joint Form Based Code Committee to develop *planBTV: Downtown Code*,



Andy Montroll (middle) receiving Citizen Planner of the Year award at the Northern New England Chapter of the APA's 2018 Conference in Maine; pictured with David White and Meagan Tuttle.



David White, Sandrine Thibault, and Meagan Tuttle following their presentation, entitled "Plans as Catalysts for Change," at the 2019 American Planning Association Conference in San Francisco.

and for his key role in encouraging municipal support for the merger of the former CCMPO with the CCRPC.

Students in the Burlington High School City and Lake Semester Program took a deep dive into exploring land use, transportation, and economic development issues associated with the South End Enterprise District during one of their program days this spring. Additionally, students in an undergraduate Community Development and Applied Economics course spent the semester studying both the land- and water-based infrastructure and systems along the Burlington waterfront in anticipation of the City's update to the Harbor Management Plan in the next fiscal year.

Planning Director David White was appointed by Mayor Weinberger to serve jointly as the Interim CEDO Director from January 2019 through the end of the fiscal year, as recruitment for the CEDO Director was underway. Shaleigh Draper served the department as the Zoning Clerk and Secretary for the Planning Commission from May 2018 to April 2019. The position is expected to be filled in early FY20, and will be part of the new Permitting and Inspections Department following the restructuring.

David White, and Comprehensive Planner, Meagan Tuttle, were selected to present at the American Planning Association's National Planning Conference in San Francisco in April 2019. Joined by former comprehensive planner, Sandrine Thibault, the presentation highlighted a number of public reinvestments, private developments, and public-private partnerships that have been implemented in the downtown and waterfront since the adoption of *planBTV: Downtown & Waterfront Master Plan* in 2013.

Appendix A: Planning Commission Attendance Log FY 2019– July 2018 through June 2019

DATE	Baker	Bradley	Friend	Lee	Montroll	Wallace-Brodeur	Roen
2018							
7/10	X	X		X	X	X	X
7/24	X	X	X	X			X
8/14	X		X		X	X	X
8/28		X	X	X	X	X	X
9/11	X	X	X	X	X	X	X
9/25	X		X	X	X	X	X
10/9		X	X		X	X	X
10/23	X	X	X	X	X	X	X
11/13	X	X	X	X		X	X
11/20 Special	X		X	X	X	X	X
11/27	X	X	X	X	X	X	
12/5 Special			X		X	X	X
12/11		X	X		X	X	X
12/11 Special		X	X		X	X	X
2019							
1/9	X	X	X	X	X	X	X
1/29	X	X	X	X	X		X
2/12	Cancelled due to weather						
2/26	Cancelled for lack of quorum						
3/12	X	X		X	X	X	X
3/26	X		X	X	X	X	X
4/9	X	X	X	X	X	X	X
4/23	Cancelled for lack of quorum						
5/14		X	X	X	X	X	X
5/28							
6/11	Cancelled for participation in Housing Summit						
6/25							

Burlington Planning Commission

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



Burlington Planning Commission

Tuesday, May 14, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Draft Minutes

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

I. Agenda

Call to Order	Time: 6:35pm
Agenda	No changes to the agenda

II. Public Forum

Name	Comment	Commission Action
A DiMario, Birchwood Terrace	Requesting a zoning amendment for the parking requirements for staffing and lot coverage for convalescence homes to be similar to senior housing.	

III. Report of the Chair

A Montroll	• No Report
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IV. Report of the Director

D White	• Budget presentation to Board of Finance on May 21 at 5pm
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V. Joint Institutional Parking Management Plan

Action: Provide recommendation of one year approval to DRB, with additional comments offered		
Motion by: J. Wallace-Brodeur	Second by: H. Roen	Vote: Approved Unanimously
Type: Presentation & Discussion, Action		Presented by: CATMA
Discussion/Notes: • CATMA presented updated report and projections based on clarified data and methodology. • Commissioners expressed concern about upward trends students who live within 0.5 mi of campus who drive to campus and/or park in nearby neighborhoods. • A Commissioner asked what parking resources are included the projected UVMCM surplus, when it seems anecdotally that so many hospital employees are already taking the shuttle, and as a visitor it doesn't seem that there is a lot of excess. CATMA indicated they would look into the lot counts. • A Commissioner encouraged collaboration with City on greater regulation of on-street parking to discourage driving within 0.5 miles of campus, and more investments in bicycling infrastructure near campus. • Staff noted that key recommendation is that this is only approved for one year based on current planning by UVM making it difficult to identify parking piece and new CATMA survey because what has been done is very different from what was originally presented.		

- The Commission approved changes to the draft recommendation to indicate that there should be stronger language about more concrete strategies to reduce driving within 0.5 mi likely jointly between institutions and City, and to ensure that any unanticipated housing created that increases the projected parking deficit (not currently in the JIPMP) should be accommodated by satellite parking

VI. Proposed CDO Amendment: Inclusionary Zoning Update

Action:		
Motion by:	Second by:	Vote:
Type: Presentation & Discussion, Action	Presented by: M Tuttle, S Gustin, T Rawlings	
Discussion/Notes:		
• Staff continued to outline proposed changes to the Inclusionary Zoning ordinance, particularly related to the administration of the ordinance. • A Commissioner asked why there is no requirement for on-going income monitoring; indicated so that residents are not displaced if their income increases, offer some flexibility to transition to market rate • It was noted that the ordinance should be clear that "0.5" is the point from which rounding up or down takes place when calculating number of units • Add "all else equal" regarding income requirements for households in the sale of inclusionary units • A Commissioner asked if there should be a time limit on how long a unit must be offered for sale at the target %AMI sale price before being allowed to offer it to a buyer that exceeds that, or set an IZ sales price at a percent of market rate. It was noted that lowering the sale price to 70% is intended to cure this. • A Commissioner expressed some concern that rents are able to go down, as it would have an effect on a developer's pro-forma and impact the rate of market-rate units. IZ Administrative Committee voted not to establish a floor to maintain ability for units to be affordable based on changes in income over time. • P O'Brian: in 9.1.16 (c), how does limiting equity maintain perpetual affordability, rather than restricting appreciation. CHT explained briefly the formula regarding principal, improvements, and appreciation.		

VII. Burlington Housing Summit

Action: N/A		
Motion by:	Second by:	Vote:
Type: Presentation	Presented by: Mayor Weinberger	
Discussion/Notes: • Overview of Housing Summit planned for June 11th and extended an invitation for the Commission to participate. Purpose is to launch a process to bring focus on a handful of key unfinished recommendations from the Housing Action Plan, other housing policy needs • A Commissioner requested that ADU's policy updates be discussed sooner than later; staff indicated will follow up post-summit and will send the Commission the ADU White Paper		

VIII. Committee Reports

Executive	No Report
Ordinance	No Report
Long Range	No Report

IX. Commissioner Items

Next Meeting	Tuesday, May 28, 2019 @ 6:30pm in Conference Room 12, City Hall
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X. Minutes & Communications

Action: Approve Minutes & Accept Communications		
Motion by: A. Friend	Second by: E. Lee	Vote: Approved Unanimously
Changes to Minutes: N/A		
Communications Filed:		
Communication from B Headrick regarding May 9 JIPMP Draft		

XI. Executive Session

Action: Recess regular meeting at 9:00pm to convene an executive session regarding a personnel matter		
Motion by: Y. Bradley	Second by: J Wallace Brodeur	Vote: Approved Unanimously
Action: Close executive session at 9:12pm to resume regular meeting		
Motion by: A Friend	Second by: Y Bradley	Vote: Approved Unanimously

XII. Adjourn

Adjournment	Time: 9:13pm	
Motion: Y Bradley	Second: E Lee	Vote: Approved Unanimously

Respectfully submitted by: M Tuttle and D White

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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
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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
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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
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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