ARTICLE 13: DEFINITIONS

Introduction: This Article of the Burlington Comprehensive Development Ordinance provides definitions of terms, concepts, and uses found throughout the ordinance.

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Sec. 13.1.1 Miscellaneous.

For the purposes of this ordinance,

(a) Words used in the singular include the plural and words used in the plural include the singular;

(b) Words used in the present tense include the future;

(c) The word "shall" is mandatory and not merely directory;

(d) The word "building" includes "structure";

(e) The word "lot" includes the word "plot"; and,

(f) The word "land" includes the words "marsh", "wetland" and "water".

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.

A

Academic Space: Spaces within buildings owned or leased by an educational institution for classrooms, laboratories, chapels, auditoriums, and lecture halls.

Accessible Unit: a housing unit designed, constructed or altered such that the unit is located on an accessible route and can be approached, entered and used by an individual regardless of any disabilities an individual may have, as set forth in the specifications of the American National Standards Institute's "Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People, A117.1-1986," or the latest edition thereof.

Accessory Appurtenance, Building, Structure, or Use: A use, building, or structure that:

(a) Is located on the same lot as the principal use, structure, or building served;

(b) Is clearly incidental to and customarily found in connection with the principal use, structure, or building; and

(c) Is subordinate in area, temporal extent, or purpose to the principal use, structure, or building served, and is not to exceed twenty-five percent (25%) of the gross area or sales of the principal use, structure, or building served.

Accessory Dwelling Unit or Apartment: A dwelling unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

Adaptive Reuse: The rehabilitation and reuse of a building or site listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places for a purpose other than that for which it was built or for which it was designed where alterations do not radically change, obscure, or destroy character-defining spaces, materials, features, or finishes.

Administrative Determination: Any decision made by the Administrative Officer or an Assistant Administrative Officer.

Administrative Officer(s): The person or persons designated pursuant to Article 2 to receive and process applications under this ordinance, also known as the zoning administrator, zoning administrative officer and to include chief assistant administrative officer and assistant administrative officer(s).

Affordable Housing/Unit: A housing development or unit for which the monthly rent, monthly carrying charge (including utilities paid by the tenant or co-op member), or monthly mortgage payment plus the average monthly utilities cost does not exceed thirty percent (30%) of household income adjusted for household size or for which carrying charges paid by the owner-occupant (including mortgage payments, taxes, condominium fees, and insurance) shall not exceed thirty percent (30%) of the household's income. A household size of 1.5 shall be used in determining whether a one (1) bedroom unit is affordable housing. A household size of 3, 4, 5, and 6, respectively, shall be used in determining whether a two (2) bedroom unit, three (3) bedroom unit, or a four (4) bedroom unit is affordable housing.

Agriculture (See also Urban Agriculture): For the purposes of this ordinance, agriculture shall mean accepted agricultural practices, including the construction of farm structures, as defined by the Vermont Secretary of Agriculture, Food, and Markets under 10 V.S.A. Sec. 1021 (f) and 1259 (f) and exempted from zoning review under V.S.A. 24 Sec. 4413 (d).

Agricultural structure (see Farm structure)

Alteration: The rearrangement of the exterior features including bearing walls, doors, windows, exits or facades; the construction, addition, reconstruction, moving, or demolition of any exterior portion of the structure; the rearrangement of interior space, including the addition of walls, halls, steps, elevators, and escalators, but not including ordinary maintenance or repairs.

Amusement Arcade: An indoor or outdoor area or structure open to the public, which contains coin operated games and similar entertainment and amusement devices.

Animal

(a) **Boarding:** An establishment involving any structure, building, land, or combination thereof used, designed, or arranged for the keeping of five (5) or more domestic pets more than three (3) months of age for profit or exchange, inclusive of equines but exclusive of other livestock used for agricultural purposes in areas approved for agricultural uses. The keeping of four (4) or less such animals more than three (3) months of age for personal enjoyment shall not be considered "boarding" for the purposes of this ordinance.

(b) **Domestic Pet**: Any canine, feline, or European ferret (Mustela putorious furo) and such other domestic animals as the Secretary of the Agency of Agriculture, Food and Markets shall establish by rule and that has been bred or raised to live in or about the habitation of humans, and is dependent on people for food and shelter.

(c) **Livestock:** Animals used for food production (including eggs, milk, honey, and meat) or fiber.

(d) **Grooming:** Any establishment where domestic pets are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health.

(e) **Hospitals:** An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence. (See Veterinarian Office)

(f) **Kennel:** Building or enclosure for the keeping of domestic pets.

(g) **Barn or coop**: Building or enclosure for the keeping of livestock.

(h) **Shelter:** A facility used to house or contain stray, homeless, abandoned, or unwanted domestic pets or livestock for the purpose of providing temporary kenneling and finding permanent adoptive homes and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and human treatment of animals.

(i) **Store, Pet**: A retail sales establishment primarily involved in the sale of domestic pets, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and livestock.

Apartment: A single dwelling unit located in a building containing more than two dwelling units or a single dwelling unit located in a mixed-use building. (See Dwelling Unit and Mixed Use Building)

Appliance Service: An establishment whose primary activity is the provision of assistance, as opposed to the sale of products, for the on site repair and service of portable household appliances, devices or instruments including but not limited to, vacuum cleaners, televisions, toasters, hairdryers; and may also provide off site repair and service (service calls to customer) of non-portable domestic appliances including but not limited to, washer machines, dryers, refrigerators, freezers and stoves.

Appurtenance, Attached or Detached: Any visible, functional or ornamental objects accessory to a building, structure, or site, including, but not limited to, windmills, sheds, outbuildings, garages, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs. (See Accessory Appurtenance, Building or Use)

Aquarium: An establishment where collections of primarily living aquatic organisms are kept and exhibited.

Area, Gross: The total area of a lot or parcel of land including street rights of way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities. "Gross area" is expressed in either acres or square feet. (Also "considered gross leasable" where applicable).

Area, Gross Leasable Floor Area: The total floor area of a building designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, expressed in square feet as measured from the center line of joint partitions and from outside wall faces.

Area, Net: The total area of a lot or parcel of land, excluding street rights of way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities. "Net area" is expressed in either acres or square feet.

Art Gallery/Studio: An establishment in which original works of art or limited editions of original art are created, bought, sold, loaned, appraised, or exhibited to the general public.

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

Art, public: Any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas; or, on non-city

property if the work of art is made available, installed or financed, either wholly or in part, with city funds or grants procured by the city or in exchange for additional developable area pursuant to applicable provisions of this ordinance.

Assisted Living: Supported living arrangement, including help with daily activities, such as dressing, grooming, bathing, etc.

Auction House: A building, area, or areas within a building used for the non-continuous public sale of goods, wares, merchandise, or equipment to the highest bidder. The bidding is conducted in person. This definition excludes therefrom an auction, the principal purpose of which is the sale of livestock or motor vehicles.

Automated Teller Machine (ATM): An automated device that performs banking or financial functions at or in a location remote from the controlling financial institution.

Automobile: Motor vehicles including but not limited to motorcycles, passenger cars, light trucks, vans, and similar size vehicles that have gross vehicle weights less than 10,000 pounds. (See Trucks)

Automobile Body Shop: A facility which provides collision repair services, including body frame straightening, replacement of damaged parts, and painting of automobiles, trailers, and recreational vehicles.

Automobile Impound: A facility that provides temporary outdoor storage of automobiles, trailers, and recreational vehicles that are to be claimed by titleholders or their agents.

Automobile & Marine Part Sales: An establishment which sells new or used parts and accessories for automobiles, trailers, recreation vehicles, or boats.

Automobile Sales – New & Used: An establishment for the storage and display for sale of more than two automobiles or trailers.

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 a salvage yard. An automobile/vehicle salvage yard does not include automobile/vehicle repair as defined in this Article.

Automobile/Vehicle Repair/Service: An establishment for the general repair, servicing, rebuilding, or reconditioning of automobiles, recreational vehicles, or trailers.

Average Monthly Utilities Cost: The Section 8 housing allowances for tenant-furnished utilities and other services for the Burlington MSA, as promulgated from time to time by HUD, and as adjusted for building type, level of energy efficiency, unit size, and the type of utilities and services actually provided in a particular housing unit.

Awning: A hood, cover or porte-cocheres often comprised of fabric, metal, or glass that is designed and intended to provide for protection from the elements or as a decorative appurtenance, and which projects from a wall or roof of a structure over a window, walk, door, landing, public right-of-way or the like, and that may include a type which can be retracted, folded, or collapsed against the face of a supporting building. An awning with symbols, logo(s) or lettering (excluding the street address) are considered a sign for the purposes of this ordinance.

B

Bakery: An establishment primarily used for the on or off-site preparation and retail sale of bread, cake, cupcakes, confections and other similar baked pastries. Such uses may include incidental food service.

Bank/Credit Union: A financial institution open to the public and engaged in deposit banking, and performs closely related functions such as making loans, investments, exchange of money, facilitating the transmission of funds and other fiduciary duties.

Banner: A typically rectangular piece of fabric or other similar non-rigid material, and with or without characters, letters, illustration, or ornamentation, supported or anchored at its four corners, top and bottom, or along top with weighted bottom.

Bar: An establishment, or portion thereof, subject to Vermont Liqueur Control Regulations and primarily devoted to the serving and on-premise consumption of alcoholic beverages, and where the service of food is only incidental to the consumption of such beverages (alcoholic beverage is greater than fifty percent (>50%) of the gross sales of food and beverages at the establishment). (See Restaurant)

Barber Shop: An establishment or place of business of one or more individuals whose practice is the cutting, trimming or shaving of head or facial hair. Said use does not include chemical treatments such as perms or dyes.

Basement: A portion of any building located wholly or partly underground and having half or more than half (≥ 50%) of its clear floor-to-ceiling height below the average finished grade of the immediately adjacent or relative adjoining ground.

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

Bedroom: A room located within a housing unit that is used primarily for sleeping purposes by human occupants and that contains at least seventy (70) square feet of floor area.

Bicycle Parking, Long Term: Facilities which protect the entire bicycle, its components, and accessories against theft inclement weather, including wind-driven rain.

Bicycle Parking, Short Term: Bicycle racks which permit the locking of the bicycle frame and one wheel to the rack and which support the bicycle in a stable position without damage to wheels, frame, or components

Bicycle Sales/Repair: An establishment where bicycles are repaired and/or sold.

Billiard Parlor/Pool Hall: A building or portion thereof having within its premises three or more pool tables or billiard tables, or combination thereof, regardless of size, and whether activated manually or by the insertion of a coin, token, or other mechanical device.

Boarding House: A building or premises where rooms are let to individuals for compensation for a period of time greater than thirty (30) days, and where meals may be regularly served in a common dining area. Hotels, motels, apartment houses, bed and breakfasts, dormitories, sorority, fraternities and historic inns, shall not be considered boarding houses.

Boat: Any type of vehicle or watercraft designed and intended for traveling in or on water.

Boat Repair/Service: An establishment for the general repair, servicing, rebuilding, or reconditioning of boats, where boats are repaired and stored only until repairs are completed.

Boat Sales/Rental: An establishment for retail sales and service in which boats are rented or sold. The sale or rental of non-motorized boats smaller than 25 feet and/or less than 150-pounds shall be considered general merchandise and not included.

Boat Storage: A space or place where boats are placed and kept for more than 24 consecutive hours.

(a) **Private:** A storage facility on a site used for the property owners own boat(s) without compensation.

(b) **Yard:** A storage facility used for boat(s) where compensation is paid for said storage.

Bowling Alley: An indoor facility that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing areas with customary accessory uses such as snack bars.

Brownfield: Abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

Buffer: An area designated to act as a visible or environmental separation between lots, districts, structures, or uses.

Build-to Line: A line to which at least a specified portion of the front wall of a building is to be constructed. A build-to line runs parallel to the front property line and the public right-of-way, and is established to create a consistent row of building facades along a street.

Building Code: The Building Code of the City of Burlington contained under Chapter 8 of the City Code of Ordinances.

Building Height: The vertical measurement of a building. See Sec. 2.7 for specific calculation provisions.

Building Inspector: The administrative officer of the building code for the City of Burlington.

Building Lot: A lot or parcel of land upon which a structure may be legally constructed. (See definition of lot).

Building Material Sales: The sale of goods for building construction purposes, which may include outdoor storage of products.

Building Permit: A permit issued by the Building Inspector for the construction, alteration or removal of a structure subject to the building code for the City of Burlington.

C

Café: Any food service establishment subject to Vermont Health Regulations containing less than or equal to 2,000 gross square feet where food and beverages are prepared, and served for consumption either on or off premises. (See Restaurant)

Campground: An area of land containing temporary or permanent buildings, tents, or other structures established or maintained as a temporary living quarter for recreation, religious, education, or vacation purposes, it may also be designed or improved for seasonal use of recreational vehicles, motor homes or mobile trailers.

Canopy: An attached or detached accessory structure intended to provide protection from inclement weather for drivers seeking goods or services. Examples of canopies include fuel pump canopies at gas stations, drive-through canopies at banks or pharmacies. Hotel or residential porte-cocheres are not canopies for the purposes of this ordinance.

Car Wash: The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Caterer: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served exclusively for consumption off-premises. (Also see Café, Restaurant and Restaurant, Take-Out)

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for such purposes including columbariums and mausoleums, when operated in conjunction with and within the boundary of land permitted or allowed for such purposes.

Certificate of Inclusionary Housing Compliance: A certificate approved by the Housing Trust Fund, in consultation with the Community and Economic Development Office, which certificate provides legal assurance that a developer's obligations under this ordinance will be satisfied.

Chief Administrative Officer: The chief administrative officer of the City of Burlington.

Cinema: An establishment devoted to showing motion pictures.

Clear Sight Triangle: An area formed for the purpose of traffic and/or pedestrian safety. See Section 5.2.6(c) for specific provisions.

Club, Membership: An organization and associated properties, buildings or facilities owned or operated for the exclusive use and benefit of members and their guests for social, intellectual, educational, or recreational purposes, but not primarily for profit or to tender a service that is customarily carried on as a business. Specifically excluded are fraternities and sororities.

Code Enforcement Office: The Code Enforcement Office of the City of Burlington.

Cold Frame: A temporary structure placed overtop of a garden bed typically made of, but not limited to, glass, plastic, fabric or other material used to extend growing season or protect seedlings and plants from the cold or heat.

Color Rendering Index: A figure of merit, on a scale of 0 to 100, used by manufacturers of fluorescent, metal halide, and other non-incandescent lighting equipment to describe the visual effect of the light on colored surfaces.

Commercial: Any activity involving the purchase, sale, storage, or other transaction regarding the disposition of any article, substance, commodity, or services for consideration and profit; and the maintenance or conduct of offices, professions, dwelling rooms and units, or recreational or amusement enterprises conducted for profit.

Community Center: A facility or portion thereof which provides recreational, educational or cultural activities for the residents of that immediate neighborhood.

Community Garden: A private not for profit or public common area used by a group of households to grow and harvest food crops or non-food crops (e.g. flowers) for personal or group consumption, for donation, or for sale. Community gardens may be principal or accessory uses and may be located on a roof or within a structure.

Community House: A community house is a residential dwelling unit where individuals are not handicapped as per the Federal Fair Housing Act but where, due to the particular needs of the resident individuals, a joint living arrangement is necessitated and where the individuals are under sponsorship or care of a public, nonprofit, or for profit agency where the sponsor or caretaker provides, or arranges for, the provision of varying degrees of personal supervision and/or care in a residential environment, such as a halfway house, a personal care residence, a community transitional facility, or any other such facility that provides such services.

The following are not considered community houses: group homes, fraternities, sororities, dormitories, convents, communes, apartments, boarding and rooming houses, tourist homes, and hotels and motels. See Article 5 for specific provisions.

Composting: A facility engaged in the controlled biological decomposition of organic matter through active management to produce, use, or sell a stable humus-rich material but shall not mean sewage or septage or materials derived from sewage or septage.

Conditions: Those requirements, as denoted or assigned in conjunction with the approval of a zoning permit, which must be met prior to the issuance of a zoning permit or certificate of occupancy.

Conditional Use: Certain uses that may be allowed only by approval of the Development Review Board subject to affirmative findings under general and specific standards, as outlined in Article 3 of this ordinance.

Conference Center: A facility used for governmental and service organizations, business and professional conferences, and seminars along with associated accessory functions. The provision of rooms for rent and meals generally available to the public shall not be considered accessory uses. (See Convention Center)

Conservation Legacy Fund: A fund established by the City Council, administered by the Department of Parks and Recreation, and used to acquire park and/or recreational property or to improve existing park and/or recreational facilities.

Contractor Yard: Storage yards operated by, or on behalf of, a contractor for storage of large equipment, vehicles, or other materials commonly used in individual contractor's type of business; storage of materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

Convalescent Home: A health center or home licensed by the State of Vermont where patients are given custodial or chronic medical, psychiatric, or psychological care but shall exclude acute care on a continuing basis. Also known as a Nursing Home.

Convenience Store: A retail store no larger that 5,000 gross square feet that is open extended hours and that typically sells limited lines of groceries, household items, snacks and may include the sale of gasoline or other motor fuel where permitted, and is intended for the convenience of the surrounding neighborhood.

Convention Center: A facility designed to be used for conventions, conferences, seminars, product displays, trade shows, special events, recreational activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption, excluding the provision of rooms for rent. (See Conference Center)

Conversion to a Nonresidential Use: A change in use of any housing unit, whether occupied or vacant, from a residential to a nonresidential use.

Correctional Facility: Any building, enclosure, space or structure of or supported by the Vermont Department of Corrections and used for the confinement of person committed to the custody of the Commissioner of the Vermont Department of Corrections, or for any other matter related to such confinement. See 28 V.S.A. §1 et seq.

Courthouse: A building housing judicial courts and associated administrative offices.

Crisis Counseling Center: An establishment containing offices and facilities for providing direct services and support resources to victims of domestic abuse or sexual assault by certified crisis workers as defined under Vermont statute (12 V.S.A. §1614).

Crematory: A building containing a properly installed, certified apparatus, typically a furnace, intended for use in the act of cremation (burning a cadaver to ashes).

D

Day Care Center: (See Article 5 for specific provisions.)

(a) **Family Day Care Home:** For the purposes of this ordinance, family day care home shall have the same meaning as that set forth in 24 V.S.A. sec. 4412 (5).

(b) **Day Care Center:** A state licensed daycare facility.

Demolition: The destruction and physical removal of any structure or portion of a structure.

Demolition by Neglect: Any neglect in the maintenance and repair of a structure which results in the deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows; the lack of adequate waterproofing; or the deterioration of interior features which will or could result in permanent damage, injury, or loss of foundations, exterior walls, roofs, chimneys, doors, or windows or so as to create or permit a hazardous or unsafe condition to exist.

Density Calculation: A calculation based on the lot size and the allowable units per acre or FAR in a given zoning district.

Density Equivalent, Nonresidential: A conversion factor that is used in calculations that are normally made using units per acre to quantify the square footage of a proposed non-residential use in comparable terms.

Dental Lab: An establishment where products are produced for dentistry purposes, including but not limited to, crowns, dental plates and artificial teeth; does not include facilities for the care and treatment of patients.

Design Advisory Board: A board appointed by the City Council to give guidance to the Development Review Board in the areas of landscaping, architecture, engineering and other pertinent site and architectural design criteria pursuant to this ordinance. See Article 2.

Design Review/Design Control District: Any defined area of the city that is subject to Design Review, as outlined in Article 6, in order to receive consideration for a zoning permit.

Development: Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; including but not limited to the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any human activity that alters a shore, beach, river, stream, lake, pond, canal, marsh, woodlands, wetland, rare or endangered species habitat, aquifer or other resource area, including shoreland construction or other activity.

Development Review Board or Board: A quasi-judicial decision-making board created by the Burlington City Council pursuant to 24 V.S.A. §4460.

Direct Illumination: Illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

Distribution Center: A use where goods are received and/or stored for delivery to remote locations.

Dormer: A roofed structure, often containing a window that projects vertically beyond the plane of a pitched roof. Dormers are commonly used to increase the usable space in a half story and to create window openings in a roof plane.

Shed dormers have a single, inclined roof.

Dog house dormers are gable roofed, typically with a single window.

Dormitory: A structure owned or operated by an accredited educational institution specifically designed for stay of an academic term by students of that institution for the purpose of providing individual beds for sleeping purposes. Shared kitchen and bathroom facilities and some gathering rooms for social, cultural, or educational purposes may also be provided.

Dry Cleaning/Laundry Service: An establishment or business maintained for the drop off, pickup and/or delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

Dry Cleaning Plant: A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

Duplex: A single structure containing two (2) separate dwelling units, regardless of the type of construction. For purposes of this ordinance a single-family detached structure with an accessory apartment shall not be considered a duplex.

Dwelling Unit (or Housing Unit)**:** A room or set of rooms fitted with a private bath, kitchen, and living facilities comprising an independent, self-contained dwelling space occupied by a family and where rooms are not let to individuals. Kitchen, living and shared bathroom facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units: or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary bathroom or (B) share a single common kitchen as the primary kitchen. (See also definition of Family and Rooming Unit)

Dwelling Unit, Single Detached: Free standing residential structure containing a single dwelling unit occupied by a "family." and where rooms are not let to individuals. Also known as a single family residence (SFR). (See definition of Family)

E

Easement: An acquired right of or upon the property of another for a specified purpose.

Eave: The edge of the roof which overhangs the face of an exterior building wall and, normally, projects beyond the side of a building; performing the primary function of the roof in throwing water clear of the exterior building walls.

Elderly Housing: See Housing, Senior.

Electronic Message Display: Any element of a Sign or Sign structure capable of displaying words, symbols, figures, images, or messages that can be electronically or mechanically changed by remote or automatic means. This also includes any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink," or any other method or technology that allows a Sign to present a series of images, messages, or displays. This does not include Signs with manually-changeable copy.

Emergency Shelter: Overnight shelter with supportive services for homeless persons that is limited to temporary occupancy, typically 180 consecutive nights or less, by a homeless person. Provide shelter only overnight.

Environmentally Sensitive Area(s): Land that contains physical environmental characteristics including but not limited to the following: wetlands; streams and riparian areas; floodplains; slopes 30 percent or greater; landslide hazard areas and other geological hazards and critical fish and wildlife habitat. These areas typically either present a constraint to development or are extremely susceptible to development impacts.

Estimated Development Cost: Cost calculated based upon building construction, alteration, and/or structural site improvement expenses including but not limited to fill, grading, cutting, etc. Not included in this figure is the purchase price of the land and the final interior finishes relative to a specific tenant, i.e. specialized equipment, finishes, furniture, drapes, etc. See Article 3.

Exterior Features: The architectural style, design, and general arrangement of the exterior of a structure, including the type and texture of building materials, and the type, arrangement, and style of all windows, doors, light fixtures, signs, or similar items found on or affixed to the exterior of a structure.

F

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:

(a) Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).

(b) A "functional family unit" as defined below.

(c) Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the "Fair Housing Amendments Act of 1988".

(d) A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4412(5), as the same may be amended from time to time.

(e) No more than four unrelated adults and their minor children.

Provided that a dwelling unit in which the various occupants are treated as separate roomers cannot be deemed to be occupied by a family.

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

1) In determining whether or not a group of unrelated adults is a "functional family unit", under the standard set forth above, the following criteria must be present:

   a. The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.

   b. The household must have stability with respect to the purpose of this chapter. Evidence of such stability may include but not be limited to, the following:

      i. Minor dependent children regularly residing in the household, and school age children are enrolled in local schools.

      ii. Proof of the sharing of expenses for food, rent, or ownership costs, utilities and other household expenses and sharing in the preparation, storage and consumption of food.

      iii. Whether or not different members of the household have the same address for purposes of:

         1. Voter registration

         2. Drivers' licenses

         3. Motor vehicle registration

4. Summer or other residences
5. The filing of taxes

c. Common ownership of furniture and appliances among the members of the household.

d. Employment of householders in the local area.

e. A showing that the household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.

f. Any other factor reasonably related to whether or not the group or persons is the functional equivalent of a family.

2) The initial determination of whether a "functional family unit" status exists shall be made by the Code Enforcement Office ("CEO"). The burden will rest upon the individuals claiming "functional family status" to submit information to the CEO to substantiate their claim. Some of the information provided to the CEO as part of a "functional family unit" status request, as well as the CEO's initial determination, may be highly confidential, and, thus, will be maintained in a separate "red envelope" in the property file. It will be left to the CEO to determine whether the information is sensitive enough to be retained in the "red envelope." Information maintained in the "red envelope" will be considered confidential and thus used only by the CEO. Access to the "red envelope" by persons outside of the CEO will only be allowed under court order or during litigation regarding said property.

Farm(ing): The use of land and/or structures for agricultural purposes. (See Agriculture and Urban Agriculture)

Farm Structure: A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. subsection 6001(22), but excludes a dwelling for human habitation.

Fence: A structure serving as an enclosure, a barrier, or a boundary usually made of posts or stakes joined by boards, wire or rails.

Film Studio: An establishment for movie production.

Finished Grade: The final elevation of the ground surface after all man-made alterations, such as grading, grubbing, filling, or excavating, have been made.

Fire Station: A building used to house fire fighting equipment and firefighters.

Flag: A typically rectangular or triangular piece of fabric or other similar non-rigid material, with or without characters, letters, illustration, or ornamentation, supported or anchored along one edge or two corners. If any side is more than three times as long as any other side the flag is considered a banner.

Flood Hazard Area - *See Article 13, Part 2 below for all Flood Hazard Definitions***.**

Floor Area Ratio: The ratio of above ground gross floor area to gross site area or, a multiplier representative of the development limits of a site applied to the parcel/land size.

Food and Beverage Processing: The preparation and packaging of food and/or beverage (including alcoholic and non-alcoholic) products for distribution and/or wholesale or retail sales, on or off premise, excluding restaurants and cafes except as an accessory use.

Footcandle: A unit of measure for illuminance. A unit of illuminance on a surface that is within a one (1) foot radius from a uniform point source of light of one (1) candlepower and equal to one (1) lumen per square foot.

Frontage: (See Article 5 for specific measurement calculations.)

a. **Building:** That portion of a building that faces a public street or right of way.
b. **Street:** That dimension of the lot which abuts a public street or right of way.

Front Yard: The full width of property along a street frontage and between the structure and the right of way. See Article 5 for specific measurement calculations.

Fuel Service Station: Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuel, or that is used or designated to be used for lubricating, washing, cleaning or otherwise servicing motor vehicle, but not including the painting or major repair thereof or the use of mechanical car washing equipment. A service station may also include a convenience store, provided that the store is accessory to the fuel or service station building.

Full Cut-off Fixture: A luminaire or light fixture that by design of the fixture housing, does not allow any light dispersion or direct glare to shine above a 90-degree, horizontal plane from the base of the fixture.

Fully Shielded Fixture: A light fixture constructed and mounted such that no light rays are emitted, either directly from the lamp or indirectly by reflection or refraction from any part of the luminaire above the horizontal plane running through the lowest point of the fixture where light is emitted.

Functional Family: See Family.

Funeral Home: A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this ordinance, may include a funeral chapel.

G

Garage: A building or structure, or a portion thereof which is designed for the storage of motor vehicles.

Garage Sale: Any sale entitled "garage sale," "lawn sale," "moving sale," "rummage sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large can be aware of such sale. More than six days of sales within a 12-month period is considered commercial retail sales for the purposes of this ordinance.

Garden Supply Store: A place of business where retail and wholesale gardening products and produce are sold to the consumer. These centers may include a nursery and/or greenhouses.

General Merchandise/Retail: Goods bought and sold in business. (See definition of retail.)

Glare: Stray, unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.

Green House: A permanent structure typically made of, but not limited to, glass, plastic, or fiberglass in which plants are cultivated.

Green Roof: A contained green space planted over a synthetic waterproofed membrane created by adding layers of growing medium and plants on top of a traditional roofing system which also includes a layer for drainage. The green space on the roof may partially or completely cover the traditional roofing system. There are two types of green roofs: extensive and intensive. Extensive green roofs have a growing medium depth of less than six inches, require little maintenance, and are lightweight. Intensive green roofs have a growing medium depth of more than six inches, require more frequent maintenance, and are heavier than extensive green roofs. In order to be classified as an intensive green roof for lot coverage credit the green roof must have a minimum growing depth of six inches.

Grocery Store: A retail establishment where most of the floor area is devoted to the sale of prepackaged and perishable food products for home preparation and consumption, which typically also offer other household and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

Gross Floor Area: The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses as measured from the exterior faces of the walls. It does not include un-insulated porches if said areas are not used for human occupancy. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

Group Home: A residential dwelling unit occupied by unrelated individuals as a single nonprofit housekeeping unit only if all said occupants, with the exception of supervisory personnel, are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the "Fair Housing Act of 1988". Such unrelated individuals shall have the right to occupy a residential dwelling unit in the same manner and to the same extent as any family unit as defined in this article.

H

Habitable: A space in the building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Hazardous Waste Collection/Disposal: All structures, other appurtenances, and improvements on the land used for collection, processing, treating, storing, or disposing of hazardous waste generated offsite or brought in from offsite, including all operations or storage areas, diked overflow, or emergency spillway areas. A hazardous waste disposal facility may consist of several treatment, storage, or disposal operational units;

it includes all areas where hazardous waste may be received, stored, handled, or processed. Said facility must be state certified. This shall not be interpreted to include collection, handling, and temporary storage of hazardous wastes generated on a property as part of normal activities of any use authorized under this ordinance.

Health Club: An indoor facility, between 5,000 and 20,000 square feet in size, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, laser tag, paint ball, miniature golf, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, climbing wall, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities. Said establishment may or may not include membership. (See also Health Studio and Indoor Recreational Facility.)

Health Care Hospitality: An establishment providing temporary guest rooms and lodging services with or without compensation to patients receiving medical treatment, and/or their family members. Such an establishment may also include secondary educational programs, recreational activities, and non-clinical support services.

Health Studio: A facility less than 5,000 square feet in size used for fitness instruction and classes in such disciplines as yoga, pilates or other similar exercises and includes exercise facilities. Such facility has no fixed seating.

Historic Inn: A building which has the primary use of housing overnight guests, subject to the criteria of Article 5, Sec. 5.4.2, that is listed or eligible for listing on the State or National Register of Historic Places.

Historic Resource: Buildings, structures, landscapes, places and sites that are listed or eligible for listing on the National Register of Historic Places.

Historic Site: The location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance and is listed or eligible for listing on the State or National Register of Historic Places.

Housing Unit: See Dwelling Unit.

Home Occupation: An accessory use of a dwelling unit for employment involving the provision of services or the fabrication of goods. Home occupations are subject to all the procedures, conditions, and standards of Article 5, Sec 5.4.6.

Hoop House: A temporary structure typically made of, but not limited to, piping or other material covered with translucent plastic, constructed in "half-round" or "hoop" shape, for the purposes of growing plants.

Horizontal Illuminance: The measurement of brightness from a light source, usually measured in footcandles or lumens, which is taken through a light meter's sensor in a horizontal position.

Hospital/Medical Center: An institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities. This definition shall not include convalescent or nursing homes, community houses, or other similar facilities.

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

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

Housing, Senior: Housing that is designed for, and is occupied primarily by, those persons fifty-five (55) years of age or older.

I

Inclusionary Unit or Affordable Inclusionary Unit: Any dwelling unit within any covered project that is made affordable pursuant to Article 6 Part 1 of this ordinance.

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-Light, Office-Technical, Research and Development Facility, Food and Beverage Processing, etc.)

Institutions: Public and private uses including, but not limited to, colleges, universities, hospitals, churches and membership clubs.

Interested Person: A person who has participated in a municipal regulatory proceeding authorized under 24 VSA Ch. 117 who may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

J

Junkyard: Any place of outdoor storage of 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.

L

Lakefront: Lake front or lakeshore means the water's edges of Lake Champlain at the ordinary high water mark (the elevation of one hundred (100) feet above mean sea level) unless otherwise defined.

Lamp: The light-producing source installed in the socket portion of the luminaire.

Landscape Areas: The portion of a lot that is not defined as “lot coverage” including grass, ground covers, gardens, shrubs, trees, and natural areas. Landscaped open space shall not include parking, drives, or impervious walkways.

Laundromats: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Laundry: The process of laundering, the cleaning of fabrics, textiles, apparel, or articles of any sort by immersion and agitation.

Legislative Body: The Burlington City Council with Mayor presiding.

Library: A facility in which literary, musical, artistic, or reference materials including but not limited to books, manuscripts, computers, recordings, or films are kept for use by or on loan to patrons of the facility, but are not normally offered for sale.

Light Trespass: Light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

Lighting, Festoon: A method of illuminating a structure with a group of incandescent bulbs hung or strung overhead or used to outline a structure or any part thereof.

Lighting Fixture: See luminaire. An assemblage of ballast, lamp receptacles, wiring, reflectors, refractors, prisms, lenses, etc., all contained within a single housing or casing, and designed to be mounted as a single unit. A fixture may be designed to accept one (1) or more lamps. One (1) or more fixtures may be mounted to a single support.

Limited Equity Dwelling Unit: Any dwelling unit in which the occupant possesses an ownership interest and which is kept affordable for low- or moderate-income households through restrictions upon equity accrual of the occupant's ownership interest.

Loading Area: A parking space or berth, directly serving a building for the loading or unloading of merchandise or material, and which has access to a street, alley or other appropriate means of ingress and egress.

Lot: A parcel of land distinguishable from other parcels by deed, as recorded in the City of Burlington Land Records on a subdivision plat, record, or survey map, or as described by metes and bounds, and intended for transfer of ownership or for building development. For purposes of this ordinance, the term does not include any portion of a dedicated right-of-way.

Lot, Corner: A lot abutting two (2) or more streets at their intersection.

Lot Coverage: The total at grade area or footprint of all structures and impervious surfaces including but not limited to parking areas, walkways drives, etc.; expressed as a percent of the total lot area. (See Art. 5)

Lot Line Adjustment: The relocation of a common property boundary where an additional lot is not created and where an existing lot reduced in size by the adjustment complies with the dimensional requirements of this ordinance. In addition. a lot line adjustment shall include the addition and subtraction of vestigial alleys when being combined with an adjacent lot. See definition of Lot above.

Lot Merger: The combination of two or more lots into one single lot pursuant to a single deed. See definition of Lot above.

Low-income Household: A household with income not exceeding eighty percent (80%) of median income for the Burlington MSA, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. Section 1437 et seq.

Low Output Lamps: Lamps with an internal lumen output of 2,000 lumens or less. Examples of lamp types of 2,000 lumens and below are: 100-Watt Standard Incandescent, 15-Watt Cool White Fluorescent, 15-Watt Compact Fluorescent, and 18-Watt Low Pressure Sodium.

Lumberyard: A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

Lumen: A unit of measure of the quantity of light that falls on an area of one square foot every point of which is one foot from the source of one candela. A light source of one candela emits a total of 12.57 lumens.

Luminaire: Means the complete lighting system, including all necessary mechanical, electrical, and decorative parts.

M

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 drop forge , 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.

Marina: Facility for berthing, rental, repair, fueling, and sale of recreational marine craft for a fee.

Market Unit: A dwelling unit that is available for sale or rent at a price determined by the economy at which both the buyer and the seller are willing to do business, where each is informed as to the advantages and limitations of the property. This definition does not include either Inclusionary or affordable Inclusionary units, as defined herein.

Mean Sea Level (MSL): The Mean Sea Level is a value obtained by averaging hourly tide heights observed over a period of time, or the average water level that would exist in the absence of tides.

Median Income: 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 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 Article 9.

Medical Lab: A facility offering diagnostic or pathological testing and analysis of blood, bodily fluids, pathological specimens, DNA sampling and analysis, and any other diagnostic test generally recognized in the healthcare industry.

Mental Health Crisis Center: A facility licensed by the State of Vermont Department of Mental Health and used exclusively by physicians, psychologists, social workers, and similar mental health care professionals and related administrative personnel for the

counseling, care, and treatment of patients and clients. Such a facility may include both out-patient and short-term acute inpatient treatment.

Metal-Halide: A high intensity discharge lamp where the light is produced by radiation from metal-halide vapors.

Mixed Use, Attached Dwelling: A building containing any combination of residential and/or non-residential uses.

Mixed Use, Building Site: A tract of land developed with any combination of residential and/or non-residential uses.

Mobile Home: Means a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, cooling, and electrical systems contained in the structure, and is:

(A) transportable in one or more sections; and

(B) at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

(C) any structure that meets all the requirements of this subdivision except for the size requirements and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and standards established under Title 42 of the U.S. Code. 10 V.S.A. §6201(1).

Mobile Home Park: Means any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park. 10 V.S.A. §6201 (2), further clarified in the Housing Division Rules, Part 1, Mobile Home Parks, Section 2.10.

Moderate-income Household: A household having an income not exceeding one hundred ten percent (110%) of median income for the Burlington MSA, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. Section 1437 et seq.

Mounting Height: The height of a light fixture or lamp above the finished grade.

Multi-family, Attached Dwelling: Any building or part thereof containing three (3) or more dwelling units.

Municipal Development Plan (MDP) (a.k.a. Comprehensive Plan, Master Plan): A land development and policy plan developed and adopted by the city pursuant to 24 V.S.A. Chapter 117, Subchapter 5.

Museum: A building and site serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include, but is not limited to, the sale of goods to the public as gifts or for their own use and a café as accessory uses. Such a facility may also include interactive exhibits and programs for learning through hands-on experiences.

N

Neighborhood Commercial Uses: Non-residential establishments intended to serve or accommodate the needs of a limited geographic segment of a community or area. Such uses include: banks, places of worship, neighborhood convenience stores, day cares, cleaners & laundromats, fire & police stations, beauty salons and barbers, hardware and general merchandise; libraries, medical/dental offices, parks, pharmacies, post offices, cafes, schools, community centers, and health studios.

Neon Lighting: Low intensity gas filled tube lighting which, when subject to high voltage, becomes luminescent in colors characteristic of the particular gas used.

Nightclub: An establishment operated as a place of entertainment, characterized by any or all of the following as a principal use: (1) live, recorded, or televised entertainment, including but not limited to performance by magicians, musicians or comedians; (2) dancing, and/or (3) the dispensing alcoholic beverages for consumption on the premises.

Nit: a photometric unit of measurement referring to luminance (the visible-light intensity or brightness given off by a surface or object). One nit is equivalent to one candela per square meter(cd/m^2).

Nonconformity: A nonconforming use, structure, lot, or parcel.

(a) **Nonconforming Lot or Parcel:** A lot or parcel that does not conform to the present bylaws covering dimensional requirements, including parking, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaw, including a lot or parcel improperly authorized as a result of error by the administrative officer or Development Review Board under the finality provisions of 24 V.S.A. §4472.

(b) **Nonconforming Structure:** A structure or part thereof not in conformance with the current zoning regulations covering building bulk, maximum height, and disposition on lot, area, or yards, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of such zoning ordinance, including a structure improperly authorized as a result of error by the administrative officer or Development Review Board under the finality provisions of 24 V.S.A. §4472.

(c) **Nonconforming Use:** An existing use of land or building that does not conform to the current use or density regulations for the district in which such use of land or building exists as set forth in Appendix A - Use Table. Such nonconforming uses are those in legal existence at the time of the adoption of the regulations to which they do not conform, including a use improperly authorized as a result of error by the administrative officer or Development Review Board under the finality provisions of 24 V.S.A. §4472. To the maximum extent possible, no entitlement shall be given to those that provide misinformation to City Officials. Permits issued as a result of such misinformation shall gain no legal entitlement regardless of duration of the permit or inaction.

Nursing Home: See definition of Convalescent Home.

O

Office, General: A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

Office, Medical/Dental: A facility used exclusively by physicians, dentists, chiropractors, psychologists and similar health care professionals for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept 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.

Official Map: A map adopted pursuant to 24 V.S.A. §4421 as amended which identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements, in order to provide the opportunity for the community to acquire land identified for public improvements prior to development for other use and to identify the locations of required public facilities for new subdivisions and other development under review by the municipality.

Opaque: A material that does not transmit light from an internal illumination source.

Open Air Market: A building or site used for selling or offering for sale at retail of locally-grown vegetables or produce, occurring in a pre-designated area, where there may be a collection of individual vendors or single vendor who have/has raised the vegetables or produce or have/has taken the same on consignment for retail sale. Also includes the incidental sale at retail of artisan-produced handicrafts, artwork, and baked goods.

Operation Center - Taxi/Bus: A facility for the housing of motor-driven buses or taxis, which may include maintenance of those vehicles.

Operation Center – Trucking: A facility for the operations and maintenance of a trucking business which may include maintenance of those vehicles.

Ordinary High Water Mark: The elevation of one hundred (100) feet above mean sea level.

Owner: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, jointly or severally with others hold(s) legal or equitable title to any real property.

Owner Occupied: Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.

P

Park: Any area designated by the City as a park pursuant to Section 22-1 of the Code of Ordinances of the City of Burlington, Vermont.

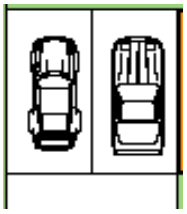
Parking Garage/Structure: A structure containing parking facilities, below or above grade.

Parking, Off-site: One or more parking spaces on one parcel of land providing parking spaces for a use on another parcel of land.

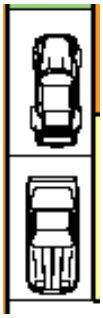
Parking, Surface/Lot: Parking facilities that are at grade and uncovered or not within a structure.

Parking, Stacked: The parking of more than two (2) cars in a parallel line, one behind the other.

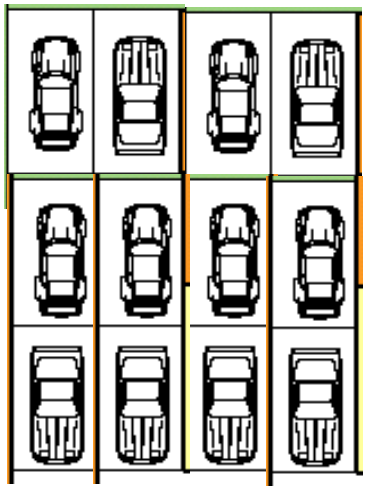
Parking, Tandem: The parking of up to two (2) cars, one behind the other.



Normal

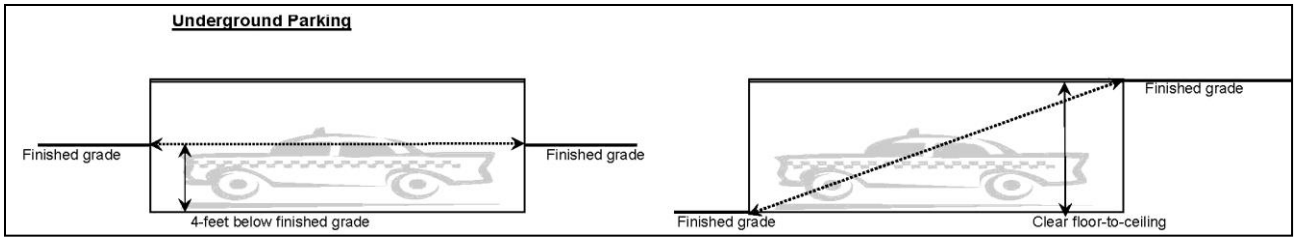


Tandem



Stacked

Parking, Underground: Parking spaces within a covered structure where either: fifty percent of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the building; or, the floor of the parking space is four (4) feet below the finished surface of the ground adjacent to the exterior walls of the building, whichever is greater.



Performing Arts Center/Theatre: An establishment primarily used for performing arts performances which may include permanent seating.

Performing Arts Studio: An establishment less than 5,000 square feet in size primarily used for acting, music, dance classes, rehearsal, or other instruction in the performing arts. Such an establishment has no permanent seating for performances.

Person: Any individual, corporation, business trust, estate trust, partnership, association, or any other entity or combination thereof.

Pervious Pavement: Pervious pavement is a permeable pavement surface with an underlying stone reservoir that temporarily stores surface runoff before infiltrating into the subsoil. Pervious pavement includes porous asphalt, pervious concrete, grass pavers, and plastic grid systems, or their equivalents as deemed acceptable by the Stormwater Administrator.

Pharmacy: A retail business substantially devoted to the sale of pharmaceutical items, supplies, and equipment, including the preparation and dispensing of prescription drugs. Said business shall be licensed by the State of Vermont as such.

Photo Studio: An establishment used by a photographer for taking pictures of subjects.

Photography Lab: An establishment used for processing film and printing images from negatives.

Photometric Data: The quantitative measurement of the properties of light, especially luminous intensity.

Planned Unit Development: One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards, pursuant to the authority and limitations set forth in the comprehensive master plan and 24 V.S.A. §4417 as amended.

Planning Commission (PC) or Commission: The planning commission of the City of Burlington, Vermont, established pursuant to 24 V.S.A. Chapter 117, Subchapter 2.

Plat: A map prepared pursuant to the requirements of Article 10 and recorded in the City Land Records representing a tract of land showing the boundaries and location of individual properties and street.

Police Station: A public safety facility operated by a governmental agency, including administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of patrol vehicles.

Post Office: A facility that contains service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

(a) **Central Distribution Center:** A post office comprised of at least 5,000 square feet which includes centralized/regional processing facilities and storage for a fleet of vehicles.

(b) **Local:** A post office comprised of less than 5,000 square feet.

Principal Building or Structure: The main or primary Building or Structure located on a Lot within which there is conducted any one or more of the Principal Use(s) found on such Lot.

Principal Use: A main or primary Use accommodated by a Building, Structure, or a Lot. The dominant use or uses to which the premises is devoted and the primary purpose for which the premises exists.

Printing: A facility for the reproduction of written or graphic materials on an order basis for individuals or businesses. May include a commercial printing operation involving a process such as printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing, binding or other similar processes.

(a) **Plant:** A facility that is greater than or equal to 5,000 square feet.

(b) **Shop:** A facility that is less than 5,000 square feet.

Public Transit Terminal: A facility or location where the principal use is the handling, receiving, and transfer of passenger traffic by various modes of travel, including, but not limited to aircraft, buses, taxis, public rail systems and ferries. (See also Operation Center - Taxi/Bus.)

Public Use: A use that is owned and operated by a public agency, or by a private/non-profit entity for use by the general public without unreasonable restriction.

Public Works Yard/Garage: A support facility housing administration, operations, maintenance, and storage for City departments with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

Q

Quasi-judicial: Having a partly but essentially judicial character by possession of the right to hold hearings on and conduct investigation into items dealing with rules and regulations and to make decisions in the general manner of courts.

R

Radio & Television Studio: An establishment for radio and television production and broadcasting.

Rail Equipment Storage & Repair: An area of land and associated structures for storage and repair of railroad equipment.

Record and Document Storage: Warehousing and storage of medical records and other documents.

Recording Studio: An establishment for recording and production of sounds and/or images, excluding broadcasting. The area for recording or practice shall be soundproof.

Recreational Facility - Indoor : An indoor facility, greater than 20,000 square feet in size, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, laser tag, paint ball, miniature golf or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, climbing wall, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities. Said establishment may or may not include membership. (See also Outdoor Recreational Facility, Health Club, and Health Studio)

Recreational Facility - Outdoor Commercial: An outdoor facility where tickets are sold or fees are collected from spectators and/or participants, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, field/ice hockey, soccer, lacrosse, baseball/softball, football or tennis. Such facility may also provide other regular organized or franchised events, snack bar, retail sales of related sports, health or fitness items, and other support facilities. (see also Indoor Recreational Facility and Outdoor Recreational Facility)

Recreational Facility - Outdoor: An outdoor facility, without seating for spectators, and providing accommodations for a variety of individual or organized sports, including but not limited to basketball, field/ice hockey, soccer, lacrosse, baseball/softball, football, tennis, or golf. Such facility may also provide a snack bar, restaurant, and other support facilities.. Said establishment may or may not include membership. (see also Indoor Recreational Facility and Outdoor Commercial Recreation)

Recreational pier: A structure built into or out over the water and used as a landing place for boats, promenade or entertainment/recreational area, including but not limited to fishing.

Recreational Vehicle: Any type of motorized vehicle used primarily for recreational purposes which have gross vehicle weight less than 10,000 pounds including but not limited to travel trailers, motor homes, ATV's, snowmobiles, etc. Recreational vehicles shall include any mobile structure designed for temporary occupancy, but shall exclude manufactured homes. (See Boats and Trucks)

Recreational Vehicle Sales – New & Used: The storage and display for sale of more than two recreational vehicles including those recreational purposes which have a gross vehicle weight more than or equal to 10,000 pounds.

Recycling Center: A building or enclosed area used for the collection, processing, sorting and resale of recyclable materials. For this use, processing means the preparation of material for shipment, or an end user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding, cleaning, and remanufacturing. Processing facilities include storage and loading areas located entirely on the processing center site.

Rehabilitation: The act or process of physically restoring a property or structure through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural integrity.

Renewable Energy Resources: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

Rental Dwelling Unit: Any dwelling unit which is made available to a non-owner by another for compensation, pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied.

Research and Development Facility: A facility used primarily for applied and developmental research, where product testing is an integral part of the operation, and goods or products may be manufactured as necessary for testing, evaluation, and test marketing but does not involve the mass manufacture, fabrication, processing, or sale of products as a principal use.

Research Lab: A facility for scientific and/or academic research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential: Regularly used by its occupants as a permanent abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

Restaurant: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served for consumption primarily on premises; and where the service of alcoholic beverages is incidental to the consumption

of food (less than fifty percent (50%) of the gross sales receipts from the business). (Also see Café, Caterers and Restaurant, Take-Out)

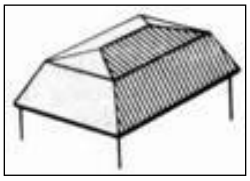
Restaurant, Take-Out: Any food service establishment subject to Vermont Health Regulations whose primary business is the sale of prepared food for consumption off the premises. (Also see Café, Caterers, and Restaurant)

Retail: The selling of goods, wares, or merchandise directly to the consumer.

Retaining Wall: A wall or terraced combination of walls used at a grade change to hold soil and other earth materials at a higher elevation.

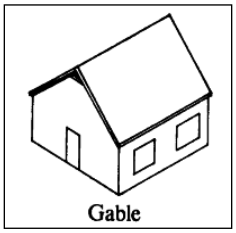
Road: See street.

Roof: The uppermost covering and its supporting structures on the top of a building



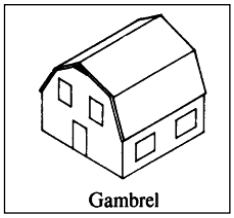
(a) **Flat Roof**: is a roof with no pitch spanning across the uppermost portion. In cases where the upper portion of a mansard roof is flat (i.e. second empire), these shall be considered a flat roof.

(b) **Gambrel Roof**: is a pitched roof with two slopes on either side, the lower slope having the steeper pitch, and having a gable at both ends.



(c) Hipped Roof: is a pitched roof comprising adjacent flat surfaces that slope upward from all sides of the perimeter of the building

(d) Mansard Roof: is a pitched roof having a double slope on all four sides, with the lower slope much steeper than the upper. The second empire mansard roof is a variation on the traditional mansard roof where the lower slopes are nearly perpendicular and the upper portion is flat or nearly flat.



(e) Pitched or Gable Roof: is a pitched roof with one slope on either side, having a gable at both ends. Also called gable roof.

Rooming Unit: as defined by Chapter 18 of the Burlington Code of Ordinances. Examples include dormitories, fraternities, sororities, and boarding houses. This shall not include units for the temporary occupancy of patients or guests in a hospital, hotel, motel or convalescent facility. Any four (4) "rooming units" shall be considered a single housing unit in calculating density for the requirements of Article 4 and applying the housing replacement requirements of Article 9 Part 2.

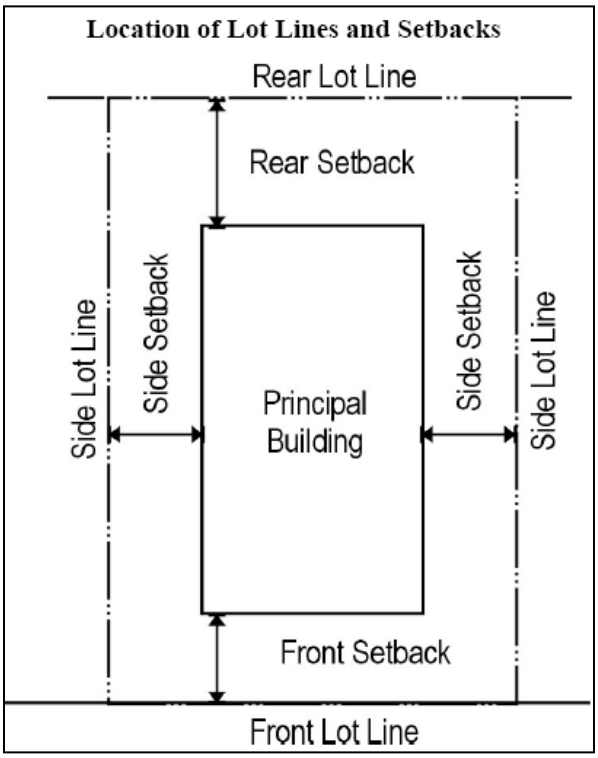
S

Salon/Spa: An establishment where non-surgical cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation, including but not limited to day spas, tanning beds and chemical treatments.

Satellite Dish Antenna: A solid, open mesh, or bar configured device, often with the shape of a shallow dish, for the purpose of transmitting and/or receiving radio or electromagnetic waves between terrestrially and/or orbitally based uses. Satellite dish antennas larger than 24” in width or diameter are subject to regulation as specified in Article 5, Sec. 5.4.7. Any satellite dish equipment less than 24" in diameter in the aggregate on a single structure or lot shall not be considered a satellite dish antenna for the purposes of this ordinance, and is not subject to regulation as such.

Seawall: A wall of stone, concrete, or other sturdy material, built along the banks or shoreline of any river, stream, brook, or lake to prevent erosion.

Setback: The open, unobstructed area required to be provided between the furthermost projection of a building and the adjacent property line. (See also definition for Yard)



School: The academic space and accessory uses for the teaching of children or adults.

(a) **Primary:** elementary school, inclusive of grades K-8.

(b) **Secondary:** a high school and/or vocational center for attendance after elementary/primary school, granting a high school diploma for levels of education inclusive of grades 9-12.

(c) **Post-Secondary:** after high school, including colleges, community colleges, universities, or continuing education.

(d) **Trade or Professional:** a school that offers instruction in skilled trades.

(e) **Preschool**: a school providing educational services for children from 3 years of age until their admission to first grade and that may include kindergarten.

Screen(ing): A method of visually shielding one structure, space or use from another structure space or use with vegetation, fencing, walls, berms, or other natural or man-made landscape elements.

Senior Housing: See Housing, Senior.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, images, trade names, and trade marks by which anything is made known, that are used to identify, advertise, or attract attention to an individual, firm, association, corporation, profession, business, place, event, commodity, or product which are visible from a public thoroughfare or right-of-way.

Site Plan: A scaled map of a lot or site that indicates all significant features including, but not limited to, site improvements, structures, boundaries, parking, drives, walkways, etc. in accordance with Article 3.

Site Plan Review: Review of the spatial layout and proposed content of a parcel of land illustrated on a site plan in accordance with the authority, limitations and procedures set forth in the municipal development plan, 24 V.S.A. §4416, and this ordinance, all as amended.

Small Lots: Any lot of record in existence as of April 26, 1973 not conforming to minimum lot size requirements of the zoning district in which it is located, if such lot is not less than four thousand (4,000) square feet in area with a minimum width or depth dimension of forty (40) feet.

Solar Access: The availability of direct sunlight to a property.

Solid Waste Facility (Incinerator/Landfill, Transfer Station): A facility regulated by the State of Vermont for the collection, treatment, or disposal of solid waste.

Sorority/Fraternity: A property used as group living quarters for students of a post-secondary educational institution who are members of a group organized for the purpose of sharing social, cultural, scholarly, or religious interests associated with and officially recognized and supervised by such an institution. A sorority/fraternity shall not be considered a "family" under the provisions of this ordinance.

Special Flood Hazard Area - *See Article 13, Part 2 below for all Flood Hazard Definitions***.**

Specimen Tree: Trees in excess of 30-inch caliper or that are determined to be over 100 years old by a certified arborist.

Stacking Area: An area for the temporary queuing of automobiles which serves a particular business, i.e.: drop offs, drive-up windows, drive through windows, etc.

Stormwater Administrator: The administrative officer of Chapter 26: Wastewater, Stormwater, and Pollution Control for the City of Burlington.

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it and which is equal to or greater than 50% of the total perimeter of the building. If there is no floor above it, then the space between the floor and the ceiling above the floor of such story. Where the floor level of the first story is at least five feet below the adjoining finished grade, the space shall be considered a basement and not counted as a story.

Street or Alley: A public way as defined in Section 1-2 of the Code of Ordinances of the City of Burlington, or a private way devoted to public use. The word "street" shall include the entire width between property lines of every way used for vehicular and pedestrian travel which has become public by authority of the law, and such ways on public places other than highways as the public is permitted to use for vehicular and pedestrian traffic. Streets shall be further classified as follows:

(a) **Arterials**: Limited access highways moving large volumes of traffic between major points within or outside of the city.

(b) **Major Collectors**: Interconnect the neighborhood of the city, other adjacent communities and the downtown to the neighborhoods.

(c) **Minor Collectors**: Gather traffic from local streets and feed it to major collectors.

(d) **Local Streets**: Streets used primarily for direct access to individual properties.

(e) **Alleys**: Ways which provide access to the back or side of properties abutting on a street and used primarily for providing services to such properties.

(f) **Cul-de-sac**: The turn around at the dead end of a local street.

Street Classification: Hierarchy of streets based on use and connectivity.

Streetscape: The physical elements that combine to create a public street and together define its character, including but not limited to, building frontages, landscaping, signs, and lighting.

Structure: Any construction, erection, assemblage or other combination of materials to form a construction that is stable, including but not limited to, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way, footings or a

foundation attachment to the land and swimming pools necessitating pilings. The term "structure" shall be construed as if followed by the words: "or part thereof."

Subdivision: A division of a parcel of land into two (2) or more lots, or other divisions. (Also see Lot Merger and Lot Line Adjustment.)

Substantial Rehabilitation: For the purposes of this ordinance any rehabilitation of an existing structure that requires an investment equal to at least fifty percent (50%) of the structure's total replacement cost as approved by the City.

Surface parking: See Parking, Surface.

T

Tailor Shop: An establishment for the repair, alteration, and/or custom making of garments such as suits, coats, and dresses.

Temporary structures: A building or structure intended for removal or demolition within a prescribed time. See Article 5.

Tenant(s): Any person, group of individuals or family who occupies a single dwelling unit or commercial space pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied.

Transit Pass: Any pass, token, fare card, voucher, or similar item entitling a person to transportation to and from work or school on mass transit facilities and provided by an employer or institution consistent with Internal Revenue Code Section 132(f).

Trailer: A vehicle standing on wheels without an independent mode of power, designed to be towed or hauled by another vehicle, and used for short-term human occupancy, carrying materials, goods, or objects, or as a temporary office or recreational vehicle.

Tree Caliper: Caliper Measurement of the trunk taken six inches above ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above ground up until the tree is considered too large to transplant.

Tree Diameter: Diameter Measurement of the trunk shall be taken at 4.5 feet above ground also known as DBH (diameter Breast Height). This measurement is used to determine size for trees considered too large to transplant.

Tree Maintenance Plan: A plan prepared by a certified arborist that includes general and specific criteria for removing trees.

Truck: Motor vehicles including but not limited to recreational vehicles, tractors, buses, heavy equipment, and similar size vehicles which have gross vehicle weights greater than or equal to 10,000 pounds, but excluding aircraft or boats. (See Automobile)

U

Uplighting: Any light source that distributes illumination above a ninety (90) degree horizontal plane.

Urban Agriculture: The production of food in a city at a household, community, or commercial scale; it can involve a range of activities including the cultivation of plants, keeping animals, and aquaculture. For the purposes of this ordinance, the term "urban agriculture" pertains to all agricultural activities not included in "agriculture" as defined in this ordinance.

Usable Open Space: Any lot area(s) or portion thereof, which enhance utility and amenity by providing space for active or passive recreation including improvements such as: recreational facilities, walkways, plazas, tennis courts, bikeways, boardwalks, recreational piers, sitting walls, fountains, lawns, gardens, unprogrammed landscaped areas and works of art. Usable open space shall not include parking or drives.

V

Variance: A deviation from the physical dimensional requirements of this ordinance as may be granted by the development review board pursuant to Article 12, but not to include any land use or density changes.

Vehicle: Any automobile, truck, motorcycle, or trailer as defined in this ordinance. (See Automobile, Trucks, and Trailer)

Very Low-income Household: A household having an income not exceeding fifty percent (50%) of median income for the Burlington MSA, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. Section 1437 et seq..

Vestigial Alley: An orphaned alley way, service way or similar lane originally platted for the purpose of providing rear yard access between lots, that is no longer in use for such purpose or is no longer a contiguous alleyway.

Veterinarian office: The office of one who practices medicine dealing with the prevention and treatment of diseases and injuries in animals.

Viewshed: The area within view from a defined observation point.

W

Waiver: Relief granted from a specific standard or requirement as authorized by this ordinance.

Warehouse: A building used for the storage of goods or materials. Warehouses may include the local, regional, national or international distribution of goods but do not include retail sale of goods.

Warehouse, Retail: A building used for the sale of goods, in bulk or as individual retail items, to the general public or to a membership.

Warehouse, Self-storage or Mini Warehouse: A building consisting of individual, self-contained units that are leased or owned for the storage of business supplies and household goods. Business goods are limited to those not associated with any office, retail or other business or commercial use within the self-storage warehouse facility.

Waterfront Pedestrian Corridor: An area along the lake shoreline dedicated for public access and circulation pursuant to the requirements of this ordinance.

Waiver Fee: A payment that is made for a person to "waive" or relinquish a specific right (e.g. the right to a hearing) with respect to an action of the court. For purposes of this ordinance, when a party is issued a municipal complaint ticket with a penalty fee

and also a waiver fee, that party may consent to no hearing and instead pay only the designated "waiver" fee and send the payment with the ticket form in accordance with the procedures of the Judicial Bureau.

Wetlands: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Commonly referred to as swamps, marshes, or bogs. The methodology for delineating wetlands shall be those as established for the state of Vermont under the *Vermont Wetland Rules*.

Wetland Buffer Zone: A defined upland area contiguous to a wetland that serves as the transition between wetlands and uplands on the landscape, and may also perform important functions independent of their buffering capacity for the wetland. Also referred to as Wetland Conservation Zone pursuant to Article 4.

Wholesale Sales: The selling and/or distributing of merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. May include two (2) day sales to public not more than four (4) times per year.

Windmill: Any mechanism including blades, rotors, and other moving surfaces and supporting structures designed for the purpose of converting wind into mechanical or electrical power.

Window Well: The clear space created by a soil-retaining structure located immediately below a window whose sill height is lower than the adjacent ground level. The **window well** provides drainage around the window and in some cases, an emergency egress route from the structure.

Wireless Telecommunication Facility: Any tower, antennae, panel or other device, and any accompanying structure, building, access road, service utility or equipment, that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

Wireless Telecommunication Service: Any commercial mobile service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Wireless Telecommunication Service Provider: Any person or entity providing Wireless Telecommunication Services.

Wireless Telecommunication Tower: Any tower or other support structure, including antennae that will extend twenty (20) or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

Worship, Place of: A building, structure, or defined space used for religious devotion, including but not limited to churches, synagogues, and mosques.

Y

Yard: All open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between a building or group of buildings and a lot line.

(a) **Yard, front:** The area encompassing the full width of the lot and lying between the street line of the lot and the nearest line of the building.

(b) **Yard, rear:** The area extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. A rear yard has no street frontage, but may abut an alley.

(c) **Yard, side:** The area between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either, to the front or rear lot lines. A side yard has no street frontage, but may abut an alley.

Z

Zoning Permit: Document signed by the administrative officer authorizing land development pursuant to the requirements of this ordinance.

PART 2: FLOOD HAZARD DEFINITIONS

For the sole purpose of administering the Special Flood Hazard Area provisions of this ordinance pursuant to Sec. 4.5.4, the following terms and words are herein defined:

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Basement means any area of the building having its floor elevation subgrade (below ground level) on all sides.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood means (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "flood").

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures that substantially reduce or eliminate flood damage to any combination of real estate, improved real property, water or sanitary facilities, structures, and the contents of the structures.

Floodway, Regulatory in the City of Burlington (Floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Historic structure means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Lowest Floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones AE.

The SFHA is composed of the floodway and the flood fringe. The floodway is the stream channel and that portion of the adjacent floodplain that must remain open to permit passage of the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Floodwaters generally are deepest and swiftest in the floodway, and anything in this area is in the greatest danger during a

flood. The remainder of the floodplain is called the flood fringe, where water may be shallower and slower.

The following figure illustrates the relationship between the floodway and flood fringe.

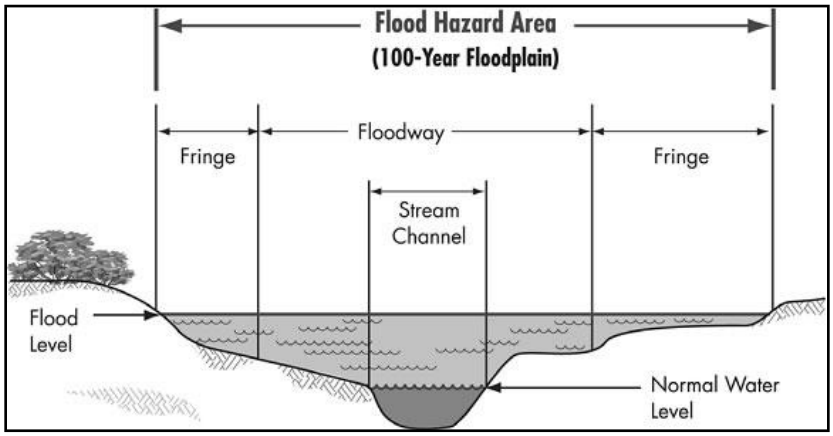


Illustration courtesy of the University of New Hampshire (UNH) Complex System Research Center (CSRC).

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose,

"structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.