Burlington Planning Commission

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www.burlingtonvt.gov/pz

Burlington Planning Commission

with City Council Ordinance Committee

Tuesday, April 13, 2021, 6:30 P.M.

Remote Meeting via Zoom

To Join the Meeting on a Computer
Link: https://us02web.zoom.us/j/86525320085

To Join the Meeting on a Phone
Number:  +1 312 626 6799  
Meeting ID: 865 2532 0085

AGENDA

I. Agenda

II. Public Forum
Public forum for items not on the agenda. See the Agenda Packet for details on how to participate in the public forum for this meeting.

III. Public Hearing: Proposed ZA-20-05 Short Term Rentals (Time Certain 6:45pm)
The Joint Committee will hold a public hearing on proposed regulations for short-term rentals (STR). The proposed amendment includes changes to the Burlington Comprehensive Development Ordinance, and is accompanied by standards that will be included in Ch. 18 Minimum Housing Standards.

While Ch. 18 is outside of the Planning Commission’s purview, the Joint Committee will accept comments on both elements of this draft regulation during the public hearing.

Information related to this item is included in the agenda packet and online, including:

- Updated staff memo regarding STR amendment: p. 5
- Draft CDO (Zoning) Amendment Language: p. 9-13
- Draft Ch. 18 (Housing Code) Amendment Language: p. 14

Staff Recommendation: The Committee is requested to provide specific feedback on any further changes to the provisions in either the CDO or Ch. 18, and direction on how it wishes to move forward with this item.

IV. Re-approve Municipal Bylaw Amendment Report ZA-21-06
The Commission will receive an update on a minor amendment made to ZA-21-06 regarding Shoreline property setbacks and buffer during the City Council Ordinance Committee meeting. Information related to this item is enclosed in the agenda packet on page 24.

Staff Recommendation: Reapprove the Municipal Bylaw Amendment report and refer to Council for its public hearing on April 26, 2021.

V. Commissioner Items
a. Upcoming Meetings: April 27, 2021 at 6:30pm

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505. Written comments on items may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401, or at mtuttle@burlingtonvt.gov.
VI. **Minutes & Communications**
   a. The minutes of the March 9, 2021 meeting are enclosed in the agenda packet on p. 33.
   b. Communications are enclosed in the agenda packet beginning on p. 36, and an additional packet of communications are available online at: [https://www.burlingtonvt.gov/CityPlan/PC/Agendas](https://www.burlingtonvt.gov/CityPlan/PC/Agendas)

VII. **Adjourn**
Guidance for Participating in a Virtual Planning Commission Meeting

As social distancing measures to preserve public health and safety continue to be required to prevent the spread of COVID-19, or are recommended as a standard practice, the Office of City Planning will be supporting the Planning Commission to conduct their meetings online via Zoom. Here is information about how to join a virtual meeting, and what to expect while participating.

**General Guidance for Public Participation**

Please remember that in this digital meeting environment, meetings are open to the public and anyone may be watching or listening even if you cannot see them. Meetings will be recorded, and both the recording and chat content of the meeting will be maintained as a public record.

Please ensure your display photo and screen name are professional, such as using your first and last name. Please test your audio and video prior to the start of a meeting, and familiarize yourself with how to join a meeting by your chosen method. And finally, please be patient with us. Technology doesn’t always work as planned, and we are all learning how to hold a successful virtual meeting!

**How to Join a Virtual Meeting**

Zoom allows participation via either computer or telephone. Each agenda for a meeting that will be conducted virtually will include details about how to join via either of these options, including a web address, phone number, Meeting ID, and password.

If you participate via computer, you have the option of seeing Commissioner videos and any presentation materials that may be shared. If you use either a standard phone or cell phone to call in, you will only hear the audio portion of the meeting. If you join via a smartphone, you may have the option to download the Zoom app, which will enable you to see and hear the meeting.

**How to Participate in a Virtual Meeting**

During meetings, only Planning Commission members and limited staff members will be viewed on video. Members of the public attending a meeting will be muted, except when invited to speak during public forum or a public hearing. Whether members of the public can speak at other times during the meeting is the discretion of the Chair.

If you want to speak during public forum, please take the following steps to assist us in making this process run as smoothly as possible:

- Email staff at mtuttle@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the “Raise Hand” feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting, they will be forwarded to the Commissioners ahead of the meeting.
PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance Amendment
ZA-20-05: Short Term Rentals

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington’s Comprehensive Development Ordinance (CDO). Per Act 92, Secs. 5 and 6, the public hearing will take place during the Planning Commission meeting on Tuesday, April 13, 2021 beginning at 6:45pm. You may access the hearing/meeting as follows:

To join from a Computer, please click this URL to join, and enter the Webinar ID if prompted:
https://us02web.zoom.us/j/86525320085

To join by phone, dial this number and enter the Webinar ID when prompted:
Number: +1 312 626 6799   Webinar ID: 865 2532 0085

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

Statement of purpose:
The purpose of the proposed amendments are as follows:

• ZA-20-05: Define and enable Short Term Rentals in the Burlington Comprehensive Development Ordinance, and refer to regulatory standards in the City’s Code of Ordinances, Ch. 18 Minimum Housing, and update CDO definitions for Hotel/Motel and Hostel.

Geographic areas affected:
These amendments apply to the following areas of the city:

• ZA-20-05: All areas and zoning districts where residential uses are permitted.

List of section headings affected:
The proposed amendments modify the following sections of the Burlington Comprehensive Development Ordinance:

• ZA-20-05: Modifies Sec.13.1.2 Definitions, Appendix A- Use Table, Table 14.3.4-H- Use Type, and Table 14.3.5-H- Use Type.

The full text of the Burlington Comprehensive Development Ordinance is available online at www.burlingtonvt.gov/DPI/CDO. The proposed amendment can be reviewed in hard copy posted on the first floor of City Hall, 149 Church Street, Burlington or on the department’s website at https://www.burlingtonvt.gov/DPI/CDO/Proposed-Amendments-Before-the-Planning-Commission

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TO: Burlington Planning Commission & City Council
   Ordinance Committee
FROM: Scott Gustin, Principal Planner & Zoning Division Manager
      Meagan Tuttle, Comprehensive Planner, Office of City Planning
DATE: March 22, 2021
RE: Proposed CDO Amendment ZA-20-05: Short Term Rentals & Ch. 18 Minimum Housing Code amendments

Overview & Background

This package of amendments resulted from the 2019 Mayor’s Housing Summit, and the subsequent Council Resolution in October 2019, which directed a Joint Committee of the Planning Commission & City Council Ordinance Committee to create a regulatory framework for short-term rentals that created tiers and disincentivizes the most impactful uses in order to:

- Limit the number of housing units converted for short-term rental purposes;
- Ensure that conversions contribute to efforts to preserve and expand affordable housing;
- Provide some flexibility for homeowners to earn income; and
- Recognize that some supply of short-term rentals benefits the Burlington economy.

Defining Short Term Rentals
A short term rental (or STR) is typically a dwelling unit that is rented in whole or in part to guests for less than 30 consecutive days for overnight stays. It may be an apartment, a house, or just a bedroom within a housing unit. AirBnB exemplifies short term rentals.

In the last several years, there has been significant and growing demand for STR’s internationally, and locally. They benefit owners with a source of income that can help subsidize a cost of living that may otherwise be unaffordable. STR’s may also encourage investment in a property. They benefit Burlington’s tourism economy and provide guests with a convenient, and often more affordable, place to stay when traveling. They also generate city and state tax revenue via the Rooms & Meals Tax (RMT). Short term rentals, however, do not come without impacts. Some have the effect of removing dwelling units for long-term occupancy, and they may contribute to rising rental rates and purchase prices. Given the high turn-over of guests, short-term rentals may bring about nuisance impacts such as traffic, noise, and trash to neighborhoods.

As the Joint Committee has heard from many of the city’s STR hosts, short-term rentals are uniquely flexible and come in a variety of forms—beyond the major distinction between whole unit and partial unit STR’s. The same dwelling unit may alternate between long- and short-term rental uses within a relatively short period of time. A dwelling unit may serve as one’s primary residence for most of the year, and serve as a short-term rental while the resident is away. A short-term rental may coexist with a number of long-term rentals within a multi-family building. This variability and flexibility needs to be considered within the context of the overarching policy objective: to protect Burlington’s limited housing stock, while affording reasonable opportunity to host short-term rentals within the city.

Short Term Rentals in Burlington
Burlington has some 10,000+ rental housing units, representing 60% of all housing units. While the June 2019 Housing Summit reported hopeful trends in a slightly increasing vacancy rate and slight slowing annual rent inflation, the city’s housing market remains tight with the long-time rental vacancy rate between 1% and 2%. Short-term rentals have replaced a growing number of dwelling
units citywide in recent years. According to data provided by HostCompliance, the number of short term rentals within Burlington increased 26% between 2018 and 2019. The average monthly number of short term rentals within city limits between June and September 2020 was 403 listings, representing 357 unique rentals.

As of September 2020, 71% STRs in Burlington are an entire dwelling unit, whereas 29% are partial dwelling units (i.e. bedrooms). This is a change from 67% and 33% respectively in 2019, likely due to COVID-19 concerns. In September 2020, 55% of the city’s STR’s were in single-family properties and 45% in multi-family properties. The COVID-19 pandemic has had wide-ranging impacts on the STR market globally and locally.

While the total number of unique properties and listings in Burlington has changed little in 2020, the number of active listings has varied this year due travel restrictions and hosts’ management decisions. Stories shared by STR hosts and data from other sites, such as AirDNA, suggest that many of these listings may currently be inactive, are being rented as an STR for a longer duration (such as for weeks or months), or are being used as temporary accommodations for people who have relocated due to the pandemic. It will be some time before the long-term impacts of COVID-19 on the local STR market are understood.

**Joint Committee work on STR Proposal**

The Joint Committee has received information on STRs in the city during meetings spanning more than a year. In response to public and Joint Committee comments, the original draft regulatory framework has been revised in four major ways:

- Revision to STR limits within multi-unit buildings to be less than 50% of units, a prohibition on STRs in buildings with 5 or more units, and a related clarification that exceeding these limits results in a “lodging” use.
- Allow some degree of off-site hosting for STR’s within multi-unit buildings.
- Consider an alternative to Housing Replacement fees, such as an additional fee based on STR income. In either scenario, fees will support the City’s Housing Trust Fund. This additional fee needs to be determined by the City Council, and likely through a charter change.
- Specifically enable hosts to short term rent their primary residence, no matter the residential building type.

The standard for when the host is required to live on or be the owner of the property hosting an STR(s) emerged as one of the most important policy levers in determining how many STRs would be possible within the city. The Committee deliberated this issue on many occasions, specifically with regard to how permissive the policy should be, and what recourse the City had for changing the policy or curtailing STR use if too many housing units became STRs.

As a result, staff provided a proposal for the Joint Committee’s consideration to shift much of the regulatory framework from the Comprehensive Development Ordinance (CDO) to Chapter 18: Minimum Housing Standards (Ch.18) of the City’s Code of Ordinances. This shift would preserve the ability to implement key policy objectives, but leaves a limited role for zoning regulation of STRs. Specifically, Ch. 18 can regulate the number of STRs permitted on a property or in a building as well as host-occupancy requirements where applicable. Ch.18 continues to be the tool to administer life safety standards and the annual rental registration process.

Moving STR standards out of the CDO has several benefits, such as avoiding the onerous process of requiring new zoning permits each time a unit switches from long-term and short-term use. But most significantly, it addresses the Committee’s feeling that the policy may need to be adjusted in the future, and eliminates the concern that non-conforming STRs would be exempt from such changes. Because standards in Ch.18 apply at the time of each annual rental registration, any policy changes made since an STR’s last permit renewal would be applicable.
Therefore, the limited role for regulating STR’s through the CDO includes allowing STR’s by-right where residential uses are permitted, and creating a definition that points to the specific STR regulations in Ch. 18. This amendment also condenses the definitions for several lodging types into one use/definition, and clarifies that they do not include STRs.

**Proposed Amendment**

<table>
<thead>
<tr>
<th>Amendment Type</th>
<th>Text Amendment</th>
<th>Map Amendment</th>
<th>Text &amp; Map Amendment</th>
</tr>
</thead>
</table>

**Purpose Statement**
The proposed regulatory framework is aimed at minimizing the potential for adverse impacts to the city’s housing stock, while balancing some flexibility for hosts to operate short term rentals. Together with amendments to Minimum Housing Standards in the City’s Code of Ordinances, the proposed amendment is intended to allow the short term rental of bedrooms within a dwelling, and the use of a host’s own dwelling occasionally as a short-term rental, with minimal burden to the host. Per-building caps are applied to whole unit short term rentals operated by off-site hosts so as to limit their proliferation. In an effort to balance the benefits to hosts with the preservation of long-term housing stock, short term rentals would generally be allowed wherever residential uses are allowed; however, in most scenarios, hosts must be a resident of the property.

**Proposed Amendments**

**CDO Amendments**
With the shift of much of the regulatory framework to Ch. 18, only limited changes to the Burlington Comprehensive Development Ordinance are now proposed:

1. **Amend Article 13 Definitions to define “short term rental”, modify “lodging” definitions**
   Define short term rental as a type of dwelling unit and refer to standards in Ch.18. The STR definition reflects the state’s definition of an STR with regard to length of rental and refers to the Vermont rooms and meals tax. Additionally, the definitions of Hotel/Motel and Hostel are streamlined to a more general “Lodging” definition to reduce redundancy and inconsistencies in how various traditional lodging uses are permitted.

2. **Add STRs as a “special residential use” to Appendix A- Use Table and in Article 14- Downtown Code**
   This will establish that short term rentals are allowed anywhere that residential uses are allowed, and will refer to Ch. 18 for specific standards.

**Ch. 18 Minimum Housing Code Amendments**
The attached documents detail the related amendments to Ch. 18 Minimum Housing Standards. While Ch. 18 amendments are not normally the purview of the Planning Commission, they are reviewed by the City Council Ordinance Committee. Further, in this instance, the Joint Committee is recommending Ch.18 amendments because they resulted from the Committee’s charge from the City Council to create a regulatory framework for STRs. These amendments include:

1. **Establish standards for the number and type of STRs permitted in a building, and when the host is required to be the owner/occupant of the property.**
   Sets limits for the number of bedrooms rented in a Partial Unit STR, and limits for the number of Whole Unit STRs permitted in a building based on the number of units in the
building. Additionally, requires host occupancy of the unit in which the STR is located except for in limited cases for STRs in multi-unit buildings of 3 or 4 units.

2. **Establish minimum life safety standards for STRs, and requirements for annual rental registration.**
   Defines a limited set of life safety standards for STRs, and additional information to be provided on rental registration applications for housing units to be used as STRs.

**Relationship to planBTV**

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

**Compatibility with Proposed Future Land Use & Density**

The STR proposal is intended to protect existing housing from unlimited conversion to short term rental use. Data shows increasing numbers of short term rentals in recent years, largely at the expense of long term housing stock. This increase puts additional pressure on the city’s available housing and degree of affordability. The proposed measures will establish parameters for allowing short term rentals while limiting their adverse impacts on the city’s housing supply and affordability.

**Impact on Safe & Affordable Housing**

The proposal will have no impact on the intensity or density of future land use. It will; however, ensure that future short term rentals are compatible with the residential neighborhoods that so many of them occupy. Short term rentals will be allowed wherever residential uses are allowed. Per-building caps will prevent wholesale conversion of residential units into short term rentals.

**Planned Community Facilities**

This amendment has no impact on any planned community facilities.

**Process Overview**

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

<table>
<thead>
<tr>
<th>Planning Commission Process</th>
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<th>City Council Process</th>
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<tbody>
<tr>
<td><strong>Draft Amendment prepared by:</strong> Staff, Joint Cmte, based on City Council referral</td>
<td><strong>Presentation to &amp; discussion by Joint Committee 1/14, 1/28, 2/11, 2/19, 8/11, 9/23, 10/28, 11/24, 12/8, 1/12, 2/9, 3/9</strong></td>
<td><strong>Approved for Public Hearing 3/9/21</strong></td>
<td><strong>Public Hearing 4/13/21</strong></td>
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<tr>
<td><strong>Public Hearing 4/13/21</strong></td>
<td><strong>Continue discussion</strong></td>
<td><strong>Approve &amp; forward to Council</strong></td>
<td><strong>Second Read &amp; Public Hearing</strong></td>
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<td><strong>Ordinance Cmte recommends to Council</strong></td>
<td><strong>Second Read &amp; Adoption</strong></td>
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<td><strong>Ordinance Committee discussion</strong></td>
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<td><strong>First Read &amp; Referral to Ordinance Cmte</strong></td>
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ARTICLE 13: DEFINITIONS

Sec. 13.1.1 Miscellaneous  As written.

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.

All other definitions as written.

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

Hotel, Inn or Motel Lodging: An establishment providing for a fee three or more temporary guest rooms and customary lodging services (such as onsite staffing at all hours, lobby space, and room service), and subject to the Vermont rooms and meals tax. Lodging may, or may not, be owner occupied. Lodging does not include historic inns or short term rentals (except when per-building short term rental limits noted in Chapter 18: Minimum Housing Standards of the City Code of Ordinances are exceeded).

Short term rental (STR): A dwelling unit that is rented in whole or in part to guests for less than thirty (30) consecutive days and for more than 14 days for overnight stays per calendar year and is subject to the Vermont rooms and meals tax, pursuant to Chapter 18: Minimum Housing Standards of the City Code of Ordinances.
### Appendix A - Use Table – All Zoning Districts

<table>
<thead>
<tr>
<th>USES</th>
<th>Urban Reserve</th>
<th>Recreation, Conservation &amp; Open Space</th>
<th>Institutional</th>
<th>Residential</th>
<th>Downtown Mixed Use</th>
<th>Neighborhood Mixed Use</th>
<th>Enterprise</th>
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<tr>
<td>URS</td>
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<td>RCO - RG</td>
<td>RCO - C</td>
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<td>RL/W</td>
<td>RM/W</td>
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<tr>
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<td>RCO - A¹¹</td>
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#### Residential Special Uses as written.

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<td>RCO - C</td>
<td>I</td>
<td>RL/W</td>
<td>RM/W</td>
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#### Non-Residential Uses

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<th>Residential</th>
<th>Downtown Mixed Use</th>
<th>Neighborhood Mixed Use</th>
<th>Enterprise</th>
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<tbody>
<tr>
<td>URS</td>
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<td>RCO - A</td>
<td>RCO - RG</td>
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#### Mixed Use

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<td>URS</td>
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<td>RCO - A</td>
<td>RCO - RG</td>
<td>RCO - C</td>
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<td>RL/W</td>
<td>RM/W</td>
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</table>

### Legend:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Zoning District</th>
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<tr>
<td>RCO - A</td>
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<td>RCO - RG</td>
<td>RCO - Recreation/Greenspace</td>
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<td>RCO - Conservation</td>
</tr>
<tr>
<td>I</td>
<td>Institutional</td>
</tr>
<tr>
<td>RL/W</td>
<td>Residential Low Density, Waterfront Residential Low Density</td>
</tr>
<tr>
<td>RM/W</td>
<td>Residential Medium Density, Waterfront Residential Medium Density</td>
</tr>
<tr>
<td>RH</td>
<td>Residential High Density</td>
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<tr>
<td>DW-PT</td>
<td>Downtown Waterfront-Public Trust</td>
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<td>NMU</td>
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<td>Neighborhood Activity Center</td>
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<tr>
<td>NAC-RC</td>
<td>NAC - Riverside Corridor</td>
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<tr>
<td>NAC-IR</td>
<td>NAC - Cambrian Rise</td>
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<tr>
<td>E-IR</td>
<td>Enterprise - Agricultural Processing and Energy</td>
</tr>
<tr>
<td>E-LM</td>
<td>Enterprise - Light Manufacturing</td>
</tr>
</tbody>
</table>

### Notes:

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. Excludes storage of unsecured hides, explosives, and oil and gas products.
6. See Sec. 4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
7. Allowed only as an accessory use.
8. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
9. No repairs must be contained within an enclosed structure.
10. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
11. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
12. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
13. Such uses not to exceed ten thousand (10,000) square feet per establishment.
14. See Sec. 4.4.1(d) 1 for specific allowances and restrictions regarding neighborhood mixed uses in residential districts.
15. See Sec. 4.4.7 (c) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
16. Such uses shall not exceed 4,000 square feet in size.
Appendix A-Use Table – All Zoning Districts

25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. This use is permitted or conditionally permitted on lots south of Home Avenue only when one or more Industrial or Art Production use(s) exists on the lot, and when the combined gross floor area of all uses with this footnote does not exceed 49% of the Gross floor Area on the lot.
28. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.
29. Must be fully enclosed within a building.
30. New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.
31. See special use standards of Sec. 5.4.13, Emergency Shelters.
32. Performing Arts Centers in the ELM zone shall be limited to properties with frontage on Pine Street up to 5,000 square feet in size, and to properties with frontage on Industrial Parkway up to 15,000 square feet in size. Performing Arts Centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
33. Short term rentals are permitted by right, subject to per building limitations and rental registration requirements pursuant to Chapter 18, Minimum Housing Standards of the City Code of Ordinances.

1 For permitted and conditional uses within the Downtown and Waterfront Form Districts, refer to Article 14.
### 14.3.4-H Use Type

**FD6**

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

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

#### RESIDENTIAL - SPECIAL
- Assisted Living  
  - P
- Boarding House¹  
  - P
- Community House (Sec.14.6.6.e)  
  - P
- Convalescent/Nursing Home  
  - P
- Short Term Rental (See Ch.18: Minimum Housing)  
  - P

#### SHORT-TERM ACCOMMODATIONS
- Bed and Breakfast¹  
  - P
- Historic Inn (Sec.14.6.6.c)  
  - P
- Hotel  
  - P
- Lodging  
  - P
- Shelter  
  - P

#### RETAIL - GENERAL
- ATM  
  - P
- Auto/Boat/RV Sales/Rentals³  
  - P
- Convenience Store  
  - P
- Fuel Service Station² (Sec.14.6.6.d)  
  - CU
- General Merchandise/Retail  
  - P

#### RETAIL - OUTDOOR
- Open Air Markets  
  - P

#### KEY
- Permitted Use  
  - P
- Conditional Use  
  - CU

#### END NOTES
1. Must be owner-occupied.
2. Automobile sales not permitted as an Accessory Use
3. Exterior storage and display not permitted.

### 14.3.4-H Use Type

**OFFICE & SERVICE**
- Animal Grooming  
  - P
- Auto/Boat/RV Service³ (Sec.14.6.6.d)  
  - P
- Beauty Salon/Barber Shop/Spa  
  - P
- Car Wash  
  - P
- Crisis Counseling Center (Sec. 14.6.6.g)  
  - P
- Office – General  
  - P
- Office – Medical  
  - P
- Office – Technical  
  - P
- Dry Cleaning Service  
  - P
- Funeral Home  
  - P
- Health Club/Studio  
  - P
- Laundromat  
  - P
- Mental Health Crisis Center  
  - P
- Tailor Shop  
  - P

#### HOSPITALITY/ ENTERTAINMENT/ RECREATION
- Aquarium  
  - P
- Art Gallery/Studio  
  - P
- Bar, Tavern  
  - P
- Billiards, Bowling & Arcade  
  - P
- Café  
  - P
- Cinema  
  - P
- Club, Membership  
  - P
- Community Center  
  - P
- Conference/Convention Center  
  - P
- Museum  
  - P
- Performing Arts Center  
  - P
- Performing Arts Studio  
  - P
- Recreational Facility - Indoor  
  - P
- Restaurant  
  - P
- Restaurant – Take Out  
  - P
### 14.3.5-H- Use Types

**FD5**

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

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

#### RESIDENTIAL - SPECIAL
- Assisted Living **P**
- Boarding House¹ **P**
- Community House *(Sec.14.6.6.e)* **P**
- Convalescent /Nursing Home **P**
- Group Home **P**
- Short Term Rental *(See Ch. 18: Minimum Housing)* **P**

#### SHORT-TERM ACCOMMODATIONS
- Bed and Breakfast¹ **P**
- Historic Inn *(Sec.14.6.6.c)* **P**
- Hotel **P**
- Lodging **P**
- Shelter **P**

#### RETAIL - GENERAL
- ATM **P**
- Automobile and RV Sales and Rental ² **P**
- Convenience Store **P**
- Fuel Service Station ² *(Sec.14.6.6.d)* **CU**
- General Merchandise/Retail **P**

#### RETAIL - OUTDOOR
- Boat Sales/Rentals **P**
- Garden Supply Store **P**
- Open Air Markets **P**

### 14.3.5-H- Use Types

**FD5**

#### OFFICE & SERVICE
- Animal Grooming **P**
- Beauty Salon/Barber Shop/Spa **P**
- Car Wash **P**
- Crisis Counseling Center *(Sec. 14.6.6.g)* **P**
- Dry Cleaning Service **P**
- Funeral Home **P**
- Health Club/Studio **P**
- Laundromat **P**
- Mental Health Crisis Center **P**
- Office – General **P**
- Office – Medical **P**
- Office – Technical **P**
- Tailor Shop **P**
- Vehicle/Boat Repair/Service ² **P**

#### HOSPITALITY/ ENTERTAINMENT/ RECREATION
- Aquarium **P**
- Art Gallery/Studio **P**
- Bar, Tavern **P**

### Key

- **P** Permitted Use
- **CU** Conditional Use

### END NOTES

¹Must be owner-occupied.

²Exterior storage and display not permitted.
ARTICLE I. IN GENERAL

18-1 Short title.

This chapter shall be known and may be cited as the "Minimum Housing Standards Ordinance of the City of Burlington."

(Rev. Ords. 1962, § 921)

18-2 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations, shall have the meanings given herein:

*Host* means a person who operates a short term rental (whole or partial unit). The host may be the property owner or tenant.

*Hotel or motel* means an establishment which holds itself out to the public by offering temporary (less than 30 days) sleeping accommodations for compensation consideration and is subject to the Vermont rooms and meals tax. Hotel or motel is defined as lodging in the Comprehensive Development Ordinance. Hotel or motel does not include short term rental.

*Occupant* shall mean any person including an owner living and sleeping in a dwelling unit or rooming unit.

*Rental unit* shall mean any structure, a part of which is rented out and occupied as a residence by another, for compensation, including duplex units, so called. Rental unit shall also include short term rental. The portion of any such unit being occupied as a residence by the owner shall be considered a rental unit.

*Roominghouse* shall mean any dwelling or that part thereof containing one or more rooming units in which space is let to three (3) or more persons for thirty (30) consecutive days or more.

*Rooming unit* shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. A rooming unit does not include short term rental.

*Short term rental (STR)* shall mean a dwelling unit that is rented in whole or in part to guests for less than thirty (30) consecutive days and for more than 14 days for overnight stays per calendar year and is subject to the Vermont rooms and meals tax. It may be a whole unit short term rental (the entire dwelling unit) or a partial unit short term rental (just bedrooms within the dwelling unit).
Target housing means any dwelling constructed prior to 1978, except any zero (0) bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of the elderly or persons with disabilities, unless a child six (6) years of age or younger resides in or is expected to reside in that dwelling. "Target housing" does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient occupancy for less than thirty (30) days or less.

All other definitions as written.

18-3 – 18-14 Reserved

As written.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

18-15 Registration required.

(a) The owners of all rental units subject to inspection pursuant to Section 18-16 shall be required to annually file a registration application and fee with the enforcement agency, which shall be due annually on or before April 1. Additional requirements pertaining only to short term rentals are listed in subsection (f).

The owners must complete a rental property information form to be provided by the enforcement agency which contains the following information:

1. The address of the property.

2. The number of dwelling units at that address.

3. The number of rental units at that address.

4. The maximum number of residents in each rental unit.

5. The number of sleeping rooms in each rental unit.

6. The number of families living in each rental unit.

7. The number of unrelated adults in each rental unit.
(8) The number of vehicles owned or used by residents of the premises and the number of parking spaces that are dedicated for the rental units at the property.

(9) The name, address, phone number, date of birth, drivers license and state and military status (active or not) of the property owner, and if the owner is a corporation, the registered corporate agent and the president of the corporation and his/her name and address, and if the owner is a partnership, the registered partnership agent, and the names and addresses of the general partners.

(10) The name, address and phone number of any local (within Chittenden County) managing agent. All owners who do not live within Chittenden County are required to designate a managing agent located in Chittenden County who is empowered to represent the owner in matters concerning compliance with this chapter.

(11) The name, address and phone number of an emergency contact for this property. All properties must have an emergency contact within Chittenden County.

(12) A designated person within the state for service of process for this property. All owners who do not live within Chittenden County are required to designate a managing agent located in Chittenden County for service of process. The name, address, phone number, date of birth, drivers license number and state and military status (active or not) of the designated agent.

(13) State yes or no to the following question: If the number of unrelated adults listed in paragraph (a)(7) above is greater than four (4), do those adults purport to reside in the rental unit as a "functional family" as that term is defined in the Burlington Zoning Ordinance?

(b) Upon purchase or transfer of property containing a rental unit, the purchasers shall file a new registration application and a fifty dollars ($50.00) fee. The payment of this fee shall cover one (1) or more rental properties being transferred to a new owner on the same date.

(c) Prior to occupancy of any newly constructed rental unit or conversion of use to a rental unit, the owner shall file an application for registration with the agency and pay the required fee which shall be the pro rata portion of the fee due for that year based on the date of registration.

(d) It shall be a violation of the city minimum housing ordinance for an owner of any rental unit within the city to fail to register a rental unit as required by this section.
(e) Property owners shall have a continuing obligation to notify the enforcement agency of any changes in the information required under subsection (a) during the periods between the required filings of the registration applications.

(f) In addition to registration requirements for all rental units noted in (a) – (e) above, all short term rentals subject to inspection pursuant to Sec. 18-16 shall be subject to the standards of Table 18-15-1 below:

<table>
<thead>
<tr>
<th>Table 18-15-1 Short Term Rental Types, Limits, and Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Whole Unit STRs</strong></td>
</tr>
<tr>
<td>Building Type</td>
</tr>
<tr>
<td>Dwelling unit that is not the host’s primary residence but is located within the same building or property as the host’s primary residence.</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Dwelling unit that is owned by a host whose primary residence is off-site.</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

A dwelling unit that is the host’s primary residence (as defined in the CDO) may be used as a STR within any building type, and are not subject to the limits above.

On lots containing 2 or more detached primary structures/buildings, the STR limits are applicable to each building, based on the number of dwelling units in each building.

Buildings exceeding these limits are a Lodging use, and subject to applicable standards in the Comprehensive Development Ordinance.

<table>
<thead>
<tr>
<th><strong>Partial Unit STRs</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bedroom Limit within STR</td>
</tr>
<tr>
<td>Dwelling unit that is the host’s primary residence.</td>
</tr>
<tr>
<td>Rooms let individually as an STR in a dwelling unit that is not the host’s primary residence is not permitted.</td>
</tr>
</tbody>
</table>

(1) Additional information to be included in the rental property information form provided by the enforcement agency:
(i) How many short term rentals are there in the building?

- Number of whole unit short term rentals?
- Number of partial unit short term rentals?

(ii) Will the short term rental(s) be rented for more than 183 days per year?

(iii) What is the tax account number?

(Ord. of 4-12-93; Ord. of 4-24-95; Ord. of 9-11-00)

18-16 Inspection required.

The enforcement officer or his/her delegate shall make inspections of rental units within the city, including hotel and motel rooms which are regularly let to the same tenant(s) for a period in excess of thirty (30) days or more, for the purpose of determining whether a violation of this chapter exists.

Excluded from periodic inspection shall be all owner-occupied dwellings containing one (1) or two (2) rooms which are rented out for compensation (including partial unit short term rentals of just one (1) or two (2) bedrooms). Also excluded from inspection are university and college dormitories that conduct regular, comprehensive inspection programs and annually certify compliance with the minimum housing standards ordinance to the enforcement agency. Inspections of dwellings and dwelling units other than those that are subject to periodic inspections, or of hospital rooms, hotel and motel rooms or dormitories not subject to periodic inspections as provided for in this section, shall be made only upon complaint or upon request of the owner thereof.

All records, including inspection reports, records of complaints received and investigated, and plan for inspections of rental units, shall be available for public inspection.

(Ord. of 4-12-93; Ord. of 9-11-00)

18-17 – 18-29

As written.

18-29a Termination of rental housing tenancy; rental housing rent increase.

(a) In any case where there is no written rental agreement, no landlord may terminate a tenancy of rental housing without cause unless at least 90 (ninety) days’ advance written notice to the tenant(s) has been provided in situations where the tenancy has been less than two (2) years in duration, nor may any such
termination occur without at least one hundred twenty (120) days’ advance written notice to the tenant(s) in situations where the tenancy has been for two (2) or more years.

(b) Unless inconsistent with the terms of a written rental agreement, no tenant may terminate a residential tenancy without providing actual notice to the landlord at least two (2) rental periods in advance of the termination date specified in such notice.

(c) No increase in rent for rental housing within the city shall be effectuated without at least 90 (ninety) days’ advance written notice to the tenant(s).

(d) The provisions of this subsection do not apply to short term rentals.

(Ord. of 10-29-04)

18-30 Fees.

(a) Registration fee. Pursuant to Section 18-15, a registration fee shall be charged to the owner of every rental unit in the city that is subject to periodic inspections. This fee shall be in an amount determined by and dedicated solely to the cost of providing rental housing inspection services, clerical, administrative and mediation support services for the housing board of review and landlord/tenant resource services. Any surplus remaining in this fund at the end of a fiscal year shall remain part of the fund and shall be carried forward to the next fiscal year. This fee shall be reviewed annually by the finance board. The fee shall be in the amount of one hundred ten dollars ($110.00) per unit per year except for owner occupied dwellings with two (2) or less units, in which case the fee shall be eighty dollars ($80.00) and except for partial unit short term rentals, in which case the fee shall be fifty dollars ($50.00).

Remainder of Sec. 18-30 as written.

18-31 – 18-69

As written.

ARTICLE III. MINIMUM STANDARDS

DIVISION 1. GENERALLY

18-70 Compliance with article required.

No person shall occupy as owner/occupant or shall let to another for occupancy any dwelling, roominghouse, dwelling unit or roaming unit which does not comply with the minimum standards as provided by this article, as evidenced by a current certificate of compliance or interim certificate of compliance. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of these standards shall be performed and installed in a skilled manner and installed in accordance with the manufacturer’s installation instructions in order to allow the performance intended and anticipated by the standards to be achieved and must meet the criteria of the definition of "skilled manner" in Section 18-2. See Division 7 for Minimum Standards applicable to short term rentals.
DIVISION 7. SHORT TERM RENTAL

18-121 Compliance with article required.
No person shall establish, operate, or host guests in a short term rental which does not comply with the minimum standards as provided by this article, as evidenced by a current certificate of compliance or interim certificate of compliance. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of these standards shall be performed and installed in a skilled manner and installed in accordance with the manufacturer’s installation instructions in order to allow the performance intended and anticipated by the standards to be achieved and must meet the criteria of the definition of “skilled manner” in Section 18-2.

18-122 Minimum Fire Safety Standards:
(a) Smoke and carbon monoxide alarms are provided per the following:
   i. Photoelectric type smoke alarms are required in the immediate vicinity of sleeping rooms, inside each sleeping room, and on all floor levels including the basement. All newly installed smoke alarms must be hard wired into the building's electrical system.
   ii. Smoke alarms in sleeping rooms of buildings constructed prior to 1994, may be of the 10-year photoelectric lithium powered tamper resistant type.
   iii. Outside each sleeping area in the immediate vicinity of the bedrooms. An additional detector shall be installed in each sleeping room that contains a fuel-burning appliance.
   iv. Carbon Monoxide alarms installed or replaced in a dwelling after July 1, 2005 must be directly wired to the building electrical service and have a battery backup.
   v. Existing single family dwellings and duplexes constructed prior to July 1, 2005 may use plug-in style alarm with battery backup or battery power or may be hardwired.
(b) GFI Outlets are provided in the following areas:
   i. Bathrooms, garages and accessory buildings having a floor located at or below grade level, not intended as a habitable room and limited to storage. Work areas, outdoors, crawl spaces, unfinished portions or areas of the basement not intended as a habitable room. Kitchen, where the receptacles are installed to serve countertop surfaces and sinks and where the receptacles are installed within 6ft from the top inside edge of the bowl of the sink. Boathouses and bathtubs or shower stalls, where receptacles are installed within 6ft of the outside edge of the bathtub or shower stall and laundry areas.
(c) Every sleeping room is provided with a primary and secondary means of escape. A window meeting rescue and ventilation requirements can satisfy the secondary means of escape.
(d) Heating systems (fuel and wood) have been inspected at least once every two (2) years by a certified fuel service technician.
(e) Landings, decks, porches and balconies higher than thirty (30) inches from grade are provided with guards and intermediate rails spaced no more than four (4) inches apart. Stairs must be provided with graspable handrails.

18-123 Minimum General Standards:
(a) Appliances are operational and in good repair, and hot and cold potable water have been supplied.
(b) Guest rooms have been serviced and cleaned before each new guest.
(c) Refuse containers are available and emptied at least once each week or more frequently, if necessary.
(d) Swimming pools, recreational water facilities, and hot tubs are kept sanitary and in good repair.
(e) Sewage system and toilets function and are in good repair.
(f) Toxic cleaning supplies are properly labeled, safely stored and used according to the manufacturer’s directions.
(g) Guest rooms are free of any evidence of insects, rodents, and other pests.
(h) Provision of fire extinguishers as required by NFPA and Burlington Fire Department.
(i) Instructions for occupants regarding:
   i. Location and use of fire extinguishers
   ii. Emergency egress routes
   iii. 24 hour/7 days per week emergency contact information
(j) Current rental registration certificate posted inside and clearly visible to occupants.

ARTICLE IV. HOUSING DISCRIMINATION

18-200 Purpose.
As written.

18-201 Definitions.
(a) For the purpose of this article, "adverse housing action" means any of the following:

   (1) Refusal to rent;
   (2) Refusal to negotiate a rental;
   (3) Making a rental unit unavailable;
   (4) Changing of the terms, conditions, or privileges of a rental including adding or increasing rental charges;
   (5) Falsely representing that a rental unit is not available for a prospective tenant;
   (6) Refusal to permit reasonable changes or modifications at other than the landlord’s expense to a rental unit in order to render it suitable for occupancy by a handicapped person.

(b) For the purpose of this article, "rental unit" shall not include:

   (1) Dormitories or other housing provided by an educational institution including fraternities and sororities;
   (2) Dwellings which are directly or indirectly assisted or subsidized by a public agency or public monies for the purpose of making housing available for a particular group or classification of persons;
   (3) Housing provided for pious, charitable, or public purposes;
(4) Dwellings where the available space or facilities are inadequate to house a person and all minors under applicable occupancy standards;

(5) Dwellings which are owner-occupied duplexes;

(6) Short term rentals.

(c) Notwithstanding the above, no dormitory or other housing provided by an educational institution, including fraternities and sororities, shall take an adverse housing action against any person because of the age, sexual orientation or handicap of the person.

(Ord. of 10-9-84; Ord. of 9-24-90)

18-202 – 18-301

As written.

18-302 Exemptions.

(a) This article shall not be applicable to single-family homes and duplexes.

(b) This article shall not be applicable to properties that meet all of the following requirements:

(1) land tract with ten (10) or fewer housing units;

(2) a deed restriction making at least twenty-five (25) per cent of the housing units affordable to low income tenant households; and

(3) located in United States Census Bureau tract that contains less than fifty (50) per cent home ownership.

(c) This article shall not be applicable to short term rentals.

(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07)

18-303 – 18-501

As written.

18-502 Applicability.

(a) This article shall be applicable to all rental properties subject to the Minimum Housing Code. In mixed commercial/residential buildings this article shall apply only to the residential portion of the building. This article shall not apply to owner-occupied portions of a multi-unit building.

(b) The following properties shall be exempt from meeting the requirements of this article:

(1) Rental properties not rented between November 1 and March 31 of each year.
(2) New construction subject to and in compliance with the Energy Conservation Ordinance, B.C.O. sections 8-100 to 8-104

(3) Hotels, motels, tourist rooming houses, dormitories, hospitals, hospices and nursing homes.

(4) Buildings or apartments where heating costs are paid by owners of the rental properties.

(5) **Short term rentals.**

(Ord. of 3-24-97)

**18-503 – 18-511**

As written.
TO: Burlington City Council  
Mayor Miro Weinberger  

FROM: Scott Gustin, Principal Planner & Zoning Division Manager  

DATE: April 13, 2021  

RE: Proposed CDO Amendment ZA-21-06: Shoreline property setbacks & buffer zone

Amended report for PC Re-approval

Overview & Background
This amendment seeks to establish a maximum front yard setback for shoreline properties in the waterfront residential districts and to provide a measure of shoreline naturalization upon development of shoreline properties.

The maximum front yard setback is proposed to remedy a recurring problem wherein the front yard setback, based on the average of neighboring properties, pushes development closer towards the shoreline and further into the riparian and littoral conservation zone. The shoreline is irregular. As a result, many shoreline properties vary in depth. In turn, placement of homes on these properties also varies. The residential front yard setback is based on the average of neighboring homes and works well in uniform neighborhoods. The average in these cases provides consistency along the street edge. Among shoreline properties, the variability of lot configurations and building locations renders the use of the average inappropriate. In some cases, strict use of the average actually pushes redevelopment closer towards the shoreline than existing development, counter to the intent of the riparian and littoral conservation zone. This amendment proposes a maximum front yard setback for waterfront residential properties to avoid recurrence of this problem.

The provision for shoreline naturalization is intended to establish a development threshold for improving shoreline conditions by allowing for some vegetative regeneration. Within the riparian and littoral conservation zone, development involving site work is reviewed by the Conservation Board with an eye towards tree retention and stormwater management capacity. Redevelopment of Burlington's widely developed shorelines has a fairly low bar for shoreline impacts. Existing conditions cannot be made worse, but there is currently no provision for improving vegetative conditions along the shoreline. The proposed amendment, applied to development above a certain threshold, will allow for some degree of vegetative regeneration by establishing no-mow areas along the shoreline.

The Conservation Board, Planning Commission Ordinance Committee, and full Planning Commission all unanimously approved this amendment. During the Council Ordinance Committee, a modification was made at the request of staff to change the language in the amendment from referring to a "no-mow" buffer requirement, to a "low-mow" buffer requirement.

Proposed Amendment

Amendment Type

<table>
<thead>
<tr>
<th>Amendment Type</th>
<th>Text Amendment</th>
<th>Map Amendment</th>
<th>Text &amp; Map Amendment</th>
</tr>
</thead>
</table>

Purpose Statement
The intent of the proposed amendment is to enhance protection of the city’s environmentally sensitive shorelines. The city has already identified the need to protect surface waters from encroaching development and from nonpoint source pollution associated with stormwater.
runoff. It has also identified the need to preserve natural vegetative cover along the shoreline to protect native plants, wildlife habitat and corridors, and water quality.

The proposed maximum setback for shoreline properties within the waterfront residential zones will substantially limit occurrences of the average front yard setback requirement pushing development closer towards the shoreline.

The low-mow provision is a simple and effective way to allow for vegetative regeneration along the shoreline. Such regeneration is consistent with the city’s articulated goals of protecting shoreline integrity, water quality, and wildlife habitat.

**Proposed Amendments**

The following amendments to the Burlington CDO are included in this proposal:

1. **Modify Table 4.4.5-1 Minimum Lot size and Frontage: RL, RL-W, RM and RM-W**
   This creates an alternative maximum setback for waterfront properties in RL-W and RM-W zoning districts.

2. **Expand Sec.4.5.4 (a) and Sec.4.5.4 (b) 4. to include low-mow standards**
   Establishes new standards to provide a low-mow buffer along the lakeshore to promote revegetation on redeveloped waterfront properties.

**Relationship to planBTV**

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

<table>
<thead>
<tr>
<th>Theme</th>
<th>Dynamic</th>
<th>Distinctive</th>
<th>Inclusive</th>
<th>Connected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td>Conserve</td>
<td>Sustain</td>
<td>Grow</td>
<td></td>
</tr>
</tbody>
</table>

Compatibility with Proposed Future Land Use & Density

The proposed amendment does not impact the types or density of potential land use and density. It provides enhanced protection of Burlington’s environmentally sensitive shorelines and is consistent with express goals of the city to protect its shorelines, water quality, and wildlife habitat and contiguity. The amendment enables more appropriate development siting and establishes a threshold for improving shoreline conditions.

Impact on Safe & Affordable Housing
The proposed amendment has no impact on housing safety or affordability.

Planned Community Facilities
The proposed amendment has no impact on planned community facilities.

**Process Overview**

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

<p>| Planning Commission Process                                                                 |
|---------------------------------------------|---------------------------------------------|---------------------------------------------|---------------------------------------------|---------------------------------------------|
| Draft Amendment prepared by: Staff, Conservation Board | Presentation to &amp; discussion by Commission 1/26/21 | Approve for Public Hearing 1/26/21 | Public Hearing 2/23/21 | Approved &amp; forwarded to Council |
|                                             |                                             |                                            |                              | Continue discussion |</p>
<table>
<thead>
<tr>
<th>City Council Process</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>First Read &amp; Referral to Ordinance Cmte 3/8/21</td>
<td>Ordinance Cmte discussion 4/1/21</td>
<td>Ordinance Cmte recommend as modified 4/1/21</td>
<td>Second Read &amp; Public Hearing 4/26/21</td>
<td>CCOC Recommends Approval &amp; Adoption</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Rejected</td>
</tr>
</tbody>
</table>
In the Year Two Thousand Twenty-One

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE – Shoreline Property Setbacks & Buffer
ZA #21-06

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

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Table 4.4.5-3, Residential District Dimensional Standards, and Section 4.5.4, Natural Resource Protection Overlay (NR) District, to read as follows:

Sec. 4.4.5 Residential Districts

(a) Purpose:
As written.

(b) Dimensional Standards and Density
The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W
As written.

Table 4.4.5-2: Base Residential Density
As written.

Table 4.4.5-3: Residential District Dimensional Standards

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Max. Lot Coverage</th>
<th>Setbacks</th>
<th>Max. Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>RL; WRL</td>
<td>35%</td>
<td>Front²</td>
<td>Side³</td>
</tr>
</tbody>
</table>

² Front: Min/Max: Ave. of 2 adjacent lots on
³ Side: Min: 10% of lot width Or ave. of side
⁴ Rear: Min: 25% of lot depth but in no

Planning Commission Agenda
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### Table 4.4.5-3: Residential District Dimensional Standards

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Max. Lot Coverage</th>
<th>Setbacks</th>
<th>Max. Height</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Front ²</td>
<td>Side ³</td>
</tr>
<tr>
<td>RM</td>
<td>40%</td>
<td>Min/Max:</td>
<td>Min: 10% of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave of 2</td>
<td>lot width Or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>adjacent lots on both sides +/- 5-feet</td>
<td>ave. of side yard setback of 2 adjacent lots on both sides</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Min/Max:</td>
<td>Min: 25% of lot depth but in no event less than 20’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20-feet</td>
<td>Max: 75-feet</td>
</tr>
<tr>
<td>WRM</td>
<td>60%</td>
<td>Min/Max:</td>
<td>Min: 25% of lot depth but in no event less than 20’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave of 2</td>
<td>Max: 75-feet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>adjacent lots on both sides +/- 5-feet</td>
<td></td>
</tr>
<tr>
<td>RH</td>
<td>80%</td>
<td>Min/Max:</td>
<td>Min: 25% of lot depth but in no event less than 20’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave of 2</td>
<td>Max: 75-feet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>adjacent lots on both sides +/- 5-feet</td>
<td></td>
</tr>
</tbody>
</table>
Table 4.4.5-3: Residential District Dimensional Standards

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Max. Lot Coverage¹</th>
<th>Setbacks²,³,⁴,⁵,⁶</th>
<th>Max. Height¹</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Front²</td>
<td>Side³</td>
</tr>
<tr>
<td></td>
<td></td>
<td>lots on both sides</td>
<td>Max required: 20-feet</td>
</tr>
</tbody>
</table>

1. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d)3A below. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5.
2. Average front yard setback of the principal structures on the 2 adjacent lots on both sides within the same block having the same street frontage. See Sec. 5.2.4.
3. In no event shall the side yard setback be required to exceed 20-feet, or the rear-yard setback be required to exceed 75-feet.
4. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of the Sec 4.5.4 Riparian and Littoral Conservation Overlay Zone.
5. The side yard setback shall be calculated based on the 4 adjacent properties (2 on each side of the subject property). The right side yard setback is the average of the right side yard setback of the principal structures on these 4 properties. The left yard setback is the average of the left side yard setback of the principal structures on these 4 properties. The adjacent properties shall be within the same block having the same street frontage as the subject property. See Sec. 5.2.5.
6. Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the setback shall be 10% of the lot width.
7. For properties in the WRL and WRM zones with frontage along Lake Champlain or the Winooski River, the front yard setback shall not be required to exceed 50 feet in any event.

(c) Permitted and Conditional Uses:
As written.

(d) District Specific Regulations:
As written.
Sec. 4.5.4 Natural Resource Protection Overlay (NR) District

(a) Purpose and Authority:

The Natural Resource Protection Overlay District is intended to:

- Protect surface waters and wetlands from encroachment by development, and from sources of non-point pollution;
- Preserve natural lakeshore vegetative cover where reasonably possible consistent with the Vermont Shoreland Protection Act, and the protection of native plants and vegetative cover that provide lake shoreland wildlife habitat, to the greatest extent possible;
- Protect the functions and values of Burlington’s wetlands;
- Protect and enhance water quality near public beaches and other water-based recreation areas from sources of non-point pollution;
- Preserve natural features and communities, geologic features and cultural sites for education and research.
- Provide opportunities for public access where feasible and appropriate;
- Facilitate connections and corridors for wildlife between areas of publicly protected sites.
- Ensure that development that occurs within a Flood Hazard Area conforms to the requirements of the National Flood Insurance Program.
- Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and
- Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- Make the City of Burlington and its residents eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(b) Areas Affected

As written.

(c) District Specific Regulations: Riparian and Littoral Conservation Zone:

1. Permitted Uses:

Except where otherwise noted herein, only the following uses are permitted within the Riparian and Littoral Conservation Zone and its associated buffer subject to the requirements and limitations set forth below under subpart 4.

A. Normal maintenance of existing lawns and maintained grounds including mowing, trimming of vegetation and the removal of dead or diseased vegetation around a residence, decorative landscaping and planting, vegetable and flower gardens, and the repair of existing private landscaping structures such as walkways and walls;
B. “Accepted agricultural and silvicultural practices” as defined under 24 VSA Ch 117;

C. Normal maintenance of constructed wetlands and stormwater systems, provided that naturally occurring wetlands are not disturbed in conjunction with the maintenance;

D. Normal maintenance of existing docks, roads, rail lines, bridges, and culverts provided that disturbance to any shoreland is minimized in conjunction with such maintenance;

E. Selective cutting of less than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle; and,

F. Recreational and educational activities such as hiking, walking, fishing, nature study, and bird watching and associated boardwalks and unimproved trails.

2. Prohibited Uses:
Except where noted herein, the following uses shall be prohibited within the Riparian and Littoral Conservation Zone and its associated buffer.

A. The deposition or introduction of organic and inorganic chemicals, including herbicides and pesticides, except when the application of pesticides is reviewed and approved by the BCB and DRB, and performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of controlling invasive species and subject to the requirements of the City’s pesticide application ordinance (Burlington Code of Ordinances, Chapter 17, Section 9); and,

B. The off-road use of any motorized vehicles including ATVs or dirt bikes (the temporary use of motorized vehicles used to construct and maintain permitted or regulated activities are specifically exempted from this prohibition);

3. Regulated Uses:
Except where otherwise noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including any construction of buildings or other structures, and roads, parking areas or any other impervious surface, may be approved only within the Riparian and Littoral Conservation Zone and its associated buffer after review and approval pursuant to the requirements and limitations below under Subpart 4.

4. Requirements:

1. Any land disturbing activities (i.e., vegetation has been removed, or the landscape has been graded or filled resulting in bare soil surfaces) shall include a stormwater management, erosion prevention and sediment control plan pursuant to the requirements of Sec 5.5.3 to be reviewed by the conservation board and approved by the city engineer.

In making determinations and decisions required herein, the city engineer shall consider the requirements of the most recent State of Vermont Stormwater Management Rules and Guidance document. The city engineer shall require the best practicable means be used to manage stormwater, prevent erosion, and control sedimentation. The city engineer is hereby authorized to develop performance standards to ensure conformance with these state stormwater management rules;

For properties with frontage along Lake Champlain or the Winooski River, development that includes 400 square feet or more of new or redeveloped lot coverage shall establish a low-mow zone along the shoreline. A low-mow zone is a new or existing vegetated area that is not mowed more than once per
year and allows vegetation to grow and mature. (Refer to Shoreland Best Management Practices established by Vermont Department of Environmental Conservation.) A low-mow zone shall be at least 15 ft. wide as measured inland from the 100 ft. elevation and shall be of a size equivalent to, or greater than, the new or redeveloped lot coverage, except that in no event shall a low-mow zone be required to extend more than 50 ft. wide as measured inland from the 100 ft. elevation or extend along more than 80% of a property’s shoreline frontage.

For properties with frontage along Lake Champlain or the Winooski River, development shall be located no closer to the shoreline than existing development wherever reasonably possible.

2. Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of Water Quality;

3. Installation of any seawalls, rip-rap or other shoreland retention structures shall be submitted for review by the conservation board who shall consult with the city engineer prior to issuance of a recommendation to the DRB; and,

4. No new stormwater outfall shall directly discharge into any surface water without approval and implementation of a stormwater management plan approved by the city engineer.

(d)-(f) As written.

* Material stricken out deleted.

** Material underlined added.

lb/KS: Ordinances 2021/Zoning Amendment – ZA #21-06, Shoreline Property Setbacks & Buffer, Table 4.4.5-3, Secs. 4.5.4(a) and (c)
## Draft Minutes

### I. Agenda

<table>
<thead>
<tr>
<th>Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>E Redic</td>
<td>Landlords trying to find a compromise with the Committee is a mistake. Committee should consider why they believe they have more rights to private property than the owners.</td>
</tr>
</tbody>
</table>

### II. Public Forum

- Staff provided brief update on minor tweaks to the language based on last meeting, and answered questions about proposed STR Bill H.200 and regulatory takings related to primary residency requirements.

- A Montroll proposed a modification to allow for an off-site STR host in single unit and duplex dwellings if the owner has owned the property for 3 years. Intent is to enable current hosts to continue, allow the city to know how many people will take advantage of this approach, and to modify the rules later be more restrictive if needed.

### III. Proposed CDO Amendment: Short Term Rentals

- Action: Approve Municipal Bylaw Amendment report and warn a public hearing on proposed CDO Amendments, and accept comment on Ch. 18 elements during public hearing.

- Motion: J Wallace Brodeur  
  Second: E Lee  
  Vote: Approved Unanimously (vote by Commissioners only)

Committee discussion of proposed CDO and Ch. 18 amendments, which are posted online at: https://www.burlingtonvt.gov/CityPlan/PC/Agendas
Some Committee members supported the concept as a middle ground and because it is responsive to public comment and current STR scenarios. It was noted however, that hosts must be aware that under Ch. 18 it would not guarantee right to STR in perpetuity due to annual registration process.

Other Committee members continued to support regulations that are more restrictive of off-site hosting because proposal would not completely curb speculation and reduce the number of units used for STRs, and were concerned that there would be tremendous push-back to revising the regulations later if needed.

Staff answered questions from Commissioners related to previous topics including process for imposing new STR fees, why a city-wide STR cap or a limit on nights rented were not recommended, and questions about the Ch 18 permitting process.

E Lee recommend that the Council consider a year or more grace period after adoption of new rules before proactive enforcement takes place for STRs that will not be able to be continued.

H Roen felt that the Committee will have failed if it doesn’t address existing STRs by people who are trying to get by, and indicated that either the Committee or the Council must consider a solution before adopting a policy.

**IV. Public Forum on STRs**

<table>
<thead>
<tr>
<th>Name</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>K McVeigh</td>
<td>Tenant renting an STR as a way to earn a living, put life savings into an apartment with landlord and it is main way of earning money to live above the poverty line for the first time. Allow existing STRs to continue while preventing new ones.</td>
</tr>
<tr>
<td>E Beaudry</td>
<td>Eliminating non-owner occupied STRs will put people out of business. Guests would not visit Burlington without STRs, and don’t want to stay in homes with people’s personal belongings. This impacts community, hosts and small businesses.</td>
</tr>
<tr>
<td>E Hanley</td>
<td>Like idea for non-owner-occupied duplexes because has owned property for 30 years and lived there for 5. New generation wants STR for travel, benefit the city’s economy and creates jobs.</td>
</tr>
<tr>
<td>D Lyons</td>
<td>Disappointed Committee cannot find balance between small property owners and tenants in the city. Will continue to advocate for small non-owner-occupied properties, and appreciate Commissioner bringing a “both, and” suggestion. Councilors need to compromise.</td>
</tr>
<tr>
<td>J Marks</td>
<td>Reading for L Kotorman: Purchased a property that is now a duplex to support retirement. Hosting has kept rent low for long term tenants, helped afford taxes and make investment in property. Proposal feels like penalty for choosing not to be a larger investor with more units. May need to sell property because cannot make the debt service as a long-term rental.</td>
</tr>
<tr>
<td>E Morrow</td>
<td>Applicant on Ethan Allen Parkway successfully turned a single-family home into a hotel, and now proposing to add additional units as STRs. As Chair of the DAB, the Committee needs to clarify what a hotel is, and whether it can be a single building or multiple. Regarding STR regulations, new homeowners should be treated the same as longer-term homeowners.</td>
</tr>
<tr>
<td>E McArdle</td>
<td>Makes no sense to allow non-owner occupied STRs for 3-4 units, but not single unit and duplex. Hosts have come to meetings for a year and have suffered great emotional distress. Extremely disappointed by some members’ use of taxes as disincentives, and the treatment of all landlords the same as large property owners.</td>
</tr>
<tr>
<td>J Sharpe</td>
<td>Some Committee members have Airbnbs, and find it inappropriate that those circumstances are being allowed, but not those of hosts coming to these meetings. Not being sympathetic to hosts is also detrimental to tourism.</td>
</tr>
<tr>
<td>C Haessly</td>
<td>Renter that hosts and concerned that would not be allowed to continue to STR. Renters should be allowed to rent their own unit, plus be allowed to rent one or</td>
</tr>
</tbody>
</table>

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V. Commissioner Items

<table>
<thead>
<tr>
<th>Action: N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion: NA</td>
</tr>
</tbody>
</table>

- Planning Commission’s next meeting is Mar. 23, 2021 at 6:30pm
- E Lee: Reiterate public comment that Committee should look at hotel definition
- B Baker: Agree with comments that there are other housing policies that have greater impact than STR regulations, including historic materials, additions to historic buildings, not allowing housing in the South End Enterprise district.

VI. Minutes & Communications

<table>
<thead>
<tr>
<th>Action: Approved the minutes and accepted the communications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion by: A Friend</td>
</tr>
</tbody>
</table>

- Minutes Approved: February 23, 2021
- Communications filed enclosed in agenda packet, and additional communications posted online at [https://www.burlingtonvt.gov/CityPlan/PC/Agendas](https://www.burlingtonvt.gov/CityPlan/PC/Agendas)

VII. Adjourn

<table>
<thead>
<tr>
<th>Adjournment</th>
<th>Time: 8:44pm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion: H Roen</td>
<td>Second: E Lee</td>
</tr>
</tbody>
</table>

S Bushor: Disappointed about the legal opinion about allowing existing STR hosts to continue, and agonize over the STR hosts who will be negatively impacted. Want to protect the housing stock, long term renters, and single family homes, but concerned about how this will impact people who live close to the edge. Don’t understand why no STRs are allowed in buildings of more than 5 units.

L Jenson: Report shared with the Committee regarding impact of STRs on housing costs. Rapid rise in housing cost not substantially driven by STRs and strict regulations on STRs are unlikely to resolve affordability crisis. Suggests that the foundation for the regulation in Burlington is false. Parties and nuisance issues are not unique to STRs. STRs are not something a host does overnight and takes back as they are time consuming and expensive. A lot of hosts are doing so because taxes are so high already, so idea of more taxes is very hard. Concerned that no safety inspection is required for partial unit STRs in owner occupied property.

A Stark: Like 3 year ownership idea to address comments the Committee has heard. Have heard a lot of concern about the “haves” (including small time landlords) and “have nots”, but think there are other housing supply solutions the Committee could take that would be more impactful. Quoted report on STR impact on housing affordability. No data that tighter regulations will help low income tenants, so Committee shouldn’t consider this vote a panacea for alleviating inequity in city.
Additional Comments received on STR Amendments

Submitted on Wednesday, March 31, 2021 - 16:29
Submitted by anonymous user

Did you attend the Housing Summit workshop in June? : No

Share your comments:
Affordable housing is great concern. These regulations requiring owner to live on the premises appear to offer a good balance of letting owner reap income from short-term rentals and not negatively impact housing market availability nor disproportionately inflate prices.
Meagan Tuttle

From: Matt & Leda <tallandsmall@gmail.com>
Sent: Thursday, April 08, 2021 8:40 AM
To: Meagan Tuttle
Subject: Reflections for upcoming STR Meeting with Committee

Dear Meagan -
I hope you can relay some of the following ideas to the Committee for the next meeting.

Dear Committee Members,
I have resigned to the likelihood that we will be pushed out of the short-term rental community in Burlington as our single family house will no longer be able to meet the criteria that are being proposed. As a result, I will be moving my house to a seasonal/yearly rental (when we are not there / do not need it - but for ~9-10 months at a time). We've started doing this, and I'm facing a particular challenge. I can line up renters who want to stay in our furnished house, but very often there is a gap of a 30-60 days between tenants.

I would love the flexibility to be able to short-term rent out during these periods (often in the summer when there is a lot of demand in Burlington). My apologies if I can't keep up with the times and discussion. However, it is likely that the STR provisions are going to make it harder for those of us rent out in non-traditional ways in Burlington (not long-term renters).

My understanding is that STR applies to people who rent out on short stints for more than 30 days per year? I would love if we were able to let out to people for up to 60 days a year, during the gaps between my renters.

Just a thought.
I'm still not very happy that our options to stay in my own house is limited by this approach. My work takes me overseas for 9-11 months a year, and sometimes my family is out with me as well and sometimes, not. I need to come back to Burlington a number of times a year, where I work in a senior role for one of the City's biggest employers (Tetra Tech ARD). In order to accommodate my work schedules and times that I need to be in Burlington, a normal year long rental just doesn't work for me.

I guess a final few thoughts would be to:
1. track the impact of the upcoming rules on city housing. I would hate to set up these regulations under the assumption that they will have the intended impact on the housing stock and affordability, and then we find that there is no difference.

2. I still find it very ironic that a city that claims to be inclusive and urban, is limiting the options for people to participate in a gig economy / flexible economy, and that actively keeps out a certain type of tourist / set of traveller who contribute to Burlington's economy. The types of people I have noted in previous emails who are keen to come to the city who I think that we have uniquely serviced.

Thanks!
Matt