TO: Planning Commission

FROM: David E White, FAICP, Dir. of Planning

DATE: April 21, 2021

RE: Proposed CDO Amendment: Updates and Corrections to Article 14 (will be ZA-21-09)

Overview & Background
This amendment makes a collection of corrections and revisions to Article 14 of the Burlington Comprehensive Development Ordinance (BCDO) – the planBTV: Form Based Code - based on the past 36+ months of real-world application to improve its consistent use and effective applicability. This has been a collective effort of the Permitting and Inspections team and some applicants working with Planning to collect problems, questions, and challenges confronted in its application to real-world projects since adoption in the fall of 2017.

Proposed Amendment

Amendment Type

| Text Amendment | Map Amendment | Text & Map Amendment |

Purpose Statement
The purpose of this amendment is to revise Article 14 of the Burlington Comprehensive Development Ordinance (BCDO) based on the past 36+ months of real-world application to include a number of corrections and updates to improve its consistent use and effective applicability including:

- Consistent use of terms and concepts regarding things like allowed encroachments into setbacks, location of parking, glazing, and voids.
- Makes clear the exemption for work being proposed for a public right-of-way or thoroughfare, and instead directs compliance with Great Streets BTV: Downtown Street Standards, and approval by the Dept. of Public Works.
- Adds new definitions including those for Awnings, Balconies, Canopies, Decks
- Revises rear yard setback in FD5 to be consistent with previous Downtown-Transition District requirement
- Adds a new Civic Space Type for “Water-Dependent” sites to better incorporate current and potential use of Perkins Pier
- Revise Map 3 – Shopfronts Required to include the new segments of Pine and St. Paul streets
- Revises Urban Design Standards regarding Primary Materials, Balconies and Decks, and Awnings and Canopies to improve their practical application
• Consolidates standards regarding Fences into a single location for ease of use, and adds maximum height and expands material standards
• Clarifies how the requirements and standards apply to existing and non-conforming structures.
• Expands authority for Administrative Relief for minor variations from numerical standards.
• Removes references to “Planning and Zoning” department and “Director.” and replaces them with “Permitting and Inspections” dept and “Administrative Officer” as appropriate

Proposed Amendments

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

See attached

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.

Impact on Safe & Affordable Housing
The proposed amendment has no impact on housing safety and 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:

<table>
<thead>
<tr>
<th>Planning Commission Process</th>
<th>Draft Amendment prepared by: Staff</th>
<th>4/7/21</th>
<th>Presentation to &amp; discussion by Commission</th>
<th>4/27/21</th>
<th>Approve for Public Hearing</th>
<th>Public Hearing</th>
<th>Approved &amp; forwarded to Council</th>
<th>Continue discussion</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>City Council Process</th>
<th>First Read &amp; Referral to Ordinance Cmte</th>
<th>Ordinance Cmte discussion</th>
<th>Ordinance Cmte recommendation</th>
<th>Second Read &amp; Public Hearing</th>
<th>Approval &amp; Adoption</th>
<th>Rejected</th>
</tr>
</thead>
</table>

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Burlington Comprehensive Development Ordinance

PROPOSED: ZA-21-XX – planBTV Downtown Code Update

As prepared by the City Planning Office – April 21, 2021.

Changes shown (underline to be added, strike-out to be deleted) are proposed changes to the Burlington Comprehensive Development Ordinance.

Purpose: This amendment is to revise Article 14 of the BCDO to include a number of corrections and updates to improve its use and applicability.

Sec. 14.1.1-14.1.2 – unchanged

Sec. 14.1.3 -Applicability

This planBTV Downtown Code shall be applicable to all lands outside of the public rights-of-way or a Thoroughfare within the Downtown and Waterfront District as mapped or described on the Burlington Regulating Plan (Section 14.2), as such may be changed from time to time, pursuant to Section 14.2 - Regulating Plan. Any and all subdivision of land, development, and construction or modification of all Improvements, land, Buildings, and Structures in the Downtown and Waterfront District shall occur only in accordance with this Article 14 planBTV Downtown Code as in effect on the date of acceptance of the completed application for approval of the applicable Project Plan submitted pursuant to Section 14.7 Administration and Procedures.

Improvement, development, construction or modification within an existing or proposed public right-of-way or a Thoroughfare shall be made in accordance with Great Streets BTV: Downtown Street Standards, and require approval by the Dept. of Public Works.

To the extent applicable, and not otherwise in conflict with this Article 14-planBTV Downtown Code, the following sections of the Burlington Comprehensive Development Ordinance (CDO) shall also continue to apply:

a) Article 1 - General Provisions
b) Article 2 - Administrative Mechanisms;
c) Article 3 - Applications, Permits and Project Reviews, Parts, 1, 2, 3, 5 and 6;
d) Article 4 - Zoning Maps and Districts, Parts 1, 2, 3, and Part 5 Sec. 4.5.4;
Article 14: planBTV Downtown Code

In each case, the standards and requirements applicable to the Downtown and Waterfront District Regulating Plan and this Article 14 shall take precedence without limitation over any duplicative or conflicting provisions of the other Articles of the Burlington Comprehensive Development Ordinance (BCDO).

If there is any conflict between the provisions of this Article 14 and any provisions of any other existing City codes, ordinances, regulations or standards (the “Existing Local Codes”), the provisions of this Article 14 shall take precedence over such conflicting provisions except for City and state Building, Fire, Health and Safety Codes.

The graphics, illustrations, photographs, tables, and metrics are an integral part of the planBTV Downtown Code; however:

a) Photographs are provided only as general illustrative examples and are not binding;
b) The illustrations of Table 14.3-A Burlington Form Districts Summary Table, Table 14.3.6-A Civic Space Types Summary Table, Table 14.4-A Building Types Summary Table, and Table 14.5-A Frontage Types Summary Table are provided only as general illustrative descriptions and are not binding;
c) The diagrams, photographs, and illustrations contained in Sections 14.3.4 through 14.3.6 (Specific to Form Districts), Sections 14.4.4 through 14.4.13 (Specific to Building Types), and Sections 14.5.4 through 14.5.17 (Specific to Frontage Types) are provided only to indicate the general character of the various Form Districts and elements. References to metrics shown thereon however shall have regulatory effect.
d) The graphics, illustrations, and photographs in Section 14.8 Glossary are provided for illustrative purposes only and are not binding;
e) The graphical depictions of the Form Districts on the various Tables are provided for ease of reference only and are not binding. The Form District designations and standards applicable to each Form District are binding.
Where in conflict, metrics represented in text and/or tables shall take precedence over metrics represented graphically, and a more specific standard shall take precedence over a more general standard.

Sec 14.2.6 - Special Requirements
Map 3 - Shopfronts Required

Sec. 14.3.4 FD6 Downtown Core

14.3.4-C- Lot Occupation & Building Placement

Frontage Buildout & Building Setback

Rear Setback:
- Principal Buildings 0-ft min. or 15-ft from a rear public Alley centerline
- Outbuildings 0-ft min. or 15-ft from a rear public Alley centerline

Table 14.3.4-E- Parking, Loading & Service

On-Site Parking
On-site parking shall be provided per the requirements of Sec. 14.6.7.

Location on the Lot
All parking provided within a Principal Building Type (other than a Perimeter Building) shall be located Underground, above the second Story, and/or at-grade within the first Story where located in the Third Lot layer and separated from the street by an Active Street-level Use. Parking Lots are not permitted, and Parking Areas shall be located in the Third Lot Layer. Unless located within a Principal Building below the finished grade or above the second Story, Parking Structures, and Garages, and Parking Areas shall be located in the Third Lot Layer behind a Principal Building Type Perimeter Building (see Sec. 14.4.11 and Sec. 14.6.3).

Parking Lots are not permitted

Miscellaneous
See also Sec. 14.6.7 for additional requirements pertaining to parking and site design.
### 14.3.4-F- Encroachments - into

**Required Setbacks**

<table>
<thead>
<tr>
<th>Encroachment Type</th>
<th>Front</th>
<th>Rear</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frontage Type Elements</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Awnings and Canopies</td>
<td>Permitted</td>
<td>Not permitted</td>
</tr>
<tr>
<td>Signs</td>
<td>Permitted</td>
<td>Not permitted</td>
</tr>
<tr>
<td>Balcony and Decks</td>
<td>4-ft max.</td>
<td>4-ft max.</td>
</tr>
<tr>
<td>Other Architectural Features</td>
<td>4-ft max.</td>
<td>4-ft max.</td>
</tr>
<tr>
<td>Landscaping</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Fences or freestanding walls</td>
<td>Not permitted</td>
<td>6-ft max. height</td>
</tr>
<tr>
<td>Driveways, Walkways</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Utility Structures</td>
<td>Not permitted</td>
<td>Permitted</td>
</tr>
</tbody>
</table>

### 14.3.4-G- Encroachments - Public right-of-way

Building eaves, roof overhangs, solar shades, and light shelves; bay windows, oriel, and vestibules that are less than ten feet wide; and, cornices, belt courses, window sills, buttresses, or other similar architectural features may encroach into the ROW provided they are a minimum of 10-ft above the Sidewalk.

### Sec. 14.3.5 FD5 Downtown Center

**14.3.5-C- Lot Occupation & Building Placement**

**Frontage Buildout & Building Setback**

**Rear Setback:**

- Principal Buildings: - 03-ft min. or 15-ft from rear public Alley centerline
  - 10-ft min. along a Form District boundary shared with a residential district.
- Outbuildings: - 03-ft min. or 15-ft from rear public Alley centerline
Table 14.3.5-E- Parking, Loading & Service

On-Site Parking

On-site parking shall be provided per the requirements of Sec. 14.6.7.

Location on the Lot

All parking provided within a Principal Building (other than a Perimeter Building Type) shall be located: Underground, above the second Story, and/or at-grade within the first Story where located in the Third Lot layer and separated from the street by an Active Street-level Use. Parking Lots are not permitted, and Parking Areas shall be located in the Third Lot Layer. Unless located within a Principal Building below the finished grade or above the second Story, All Parking Structures, Garages and Garages Parking Areas shall be located in the Third Lot Layer behind a Principal Perimeter Building (see Sec. 14.6.3 and Sec. 14.4.11) Type. Parking Lots are not permitted

Miscellaneous

See also Sec. 14.6.7 for additional requirements pertaining to parking and site design.

14.3.5-F- Encroachments into-- Required Setbacks

<table>
<thead>
<tr>
<th>Encroachment Type</th>
<th>Front</th>
<th>Rear</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frontage Type Elements</td>
<td>Permitted</td>
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<td>Permitted</td>
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<tr>
<td>Balcony and Decks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Architectural Features</td>
<td>4-ft max. encroachment</td>
<td></td>
</tr>
<tr>
<td>Landscaping</td>
<td>Permitted</td>
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14.3.5-G- Encroachments - Public right-of-way

Building eaves, roof overhangs, solar shades, and light shelves; bay windows, oriel, and vestibules that are less than ten feet wide; and, cornices, belt courses, window sills, buttresses, or other similar architectural features may encroach into the ROW provided they are a minimum of 10-ft above the Sidewalk.

Sec. 14.3.6-1 Water-Dependent

Intent

An Open Space associated with water-dependent recreation and related facilities.

Specifications

<table>
<thead>
<tr>
<th>Form District</th>
<th>FD5</th>
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<tr>
<td>Size</td>
<td>No size limits</td>
</tr>
<tr>
<td>Frontage</td>
<td>Independent</td>
</tr>
<tr>
<td>Character</td>
<td>Informal</td>
</tr>
<tr>
<td>Coverage</td>
<td>80% max.</td>
</tr>
<tr>
<td>Buildings and Structures</td>
<td>1,500 sqft max in aggregate</td>
</tr>
<tr>
<td>Setback for Buildings and Structures</td>
<td>50-feet from the mean high water mark of Lake Champlain (100-feet above mean sea level) unless encroachment is required for the operation of a water-dependent use or facility. Features such as walkways, planters, benches, fountains, public art, sitting walls and other improvements to enhance the pedestrian environment and enjoyment of the waterfront may encroach into this required setback provided public access to the water’s edge and pedestrian circulation is not unreasonably impaired.</td>
</tr>
</tbody>
</table>

†Not inclusive of any associated Civic Buildings.
Typical Facilities

- Water-oriented facilities and services such as docks, marinas, boat ramps and lifts, boat fueling and pump-out, restrooms, marina office and chandlery, and facilities for commercial vessels.
- Civic, recreational, and community facilities
- Playgrounds and play Structures
- Passive recreation, paths, and trails
- Buildings and Structures necessary to support water-oriented facilities and services
- Commercial concessions

Parking

On-site parking is not required, and may not occupy more than 60% of the gross site area.

Sec. 14.4.13 - Urban Design Standards

a) - unchanged

b) Windows & Doors:

iii. Principal Entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights, or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a Principal Entrance should be expressed vertically, and may continue onto the upper stories. Such bays are not required to include additional horizontal expression or upper story step-backs as required in c) below.

iv. Where provided:

A-D - unchanged

E. Shading devices designed and intended to control light entering the Building may project no more than 5-feet from the Facade, shall be consistent in materials, color, and design across the same Facade, and shall be placed, sized, shaped, and proportioned to match the associated openings.
c) Façade Articulation and Upperstory Stepbacks:

i. Building Facades shall be horizontally articulated as follows:

C. The top story (other than a penthouse setback at least 10-feet from the primary plane of the Façade below) must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the Façade of the story below by at least 12-inches to serve as an expression of the Buildings top.

iv. The upper stories of any Building exceeding 6 stories in height shall step-back as follows:

A. An upper story step-back of at least 10-feet from the primary plane of the Façade below shall occur above either the 2nd, 3rd, 4th, or 5th story, with the resulting Building base seeking to maintaining a consistent height of at least 50-feet along Main and Battery streets, and at least 33-feet on all other downtown streets, in order to frame and define the public realm.

d) Building Materials:

i. Primary Materials: Not less than 80 percent of each street-facing Facade (not inclusive of voids) shall be constructed of one or more primary materials comprised of tested and proven, high quality, durable, and natural products. For Facades over 100 square feet, more than one Primary Material shall be used. Changes between Primary Materials must occur only at inside corners. The following are considered acceptable Primary Materials:

A. Brick and tile masonry;

B. Native or sintered stone;

C. E - unchanged

ii-iii - unchanged

iv. Fences: Fence materials shall not include barbed or razor wire. Chain link and wire fencing shall not be used along any Frontage Line, however, woven cable fencing is permitted.

iv. Roof Materials (not applicable to flat roofs). Acceptable roof materials include 300 pound or better, dimensional asphalt composite shingles, wood shingles and shakes, metal tiles or standing seam, slate, and ceramic tile. To the extent possible, all roof materials and colors should be selected to minimize solar reflectance.

vi. Alternate Materials: Alternate materials, including high quality synthetic materials, may be approved by the Planning Director after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.

vii. Other: - unchanged
e). Walls:
   i. Unfinished (ie. not clad or constructed in a Primary or Secondary Material per d) above)
      foundation walls on a Principal Building shall be exposed no more than 48-inches above the
      finished grade. Surface-applied waterproofing on any foundation wall shall not be visible.
   ii-vi – unchanged

f). Roofs: – unchanged

g) Balconies and Decks: Where provided, all Balconies and Decks shall meet the following
   specifications:
      i. Balconies must be at least 4-feet deep (A) and 5-feet wide, and shall not project more
         than 8-feet from the plane of the Façade or Elevation to which it is attached.
      ii. Balconies shall be cantilevered or visibly supported by brackets or beams sized, shaped
         and proportioned to match the associated Balcony. Columns or posts extending to the
         ground within the public right-of-way are prohibited on a Facade, except in the case of a
         Gallery Frontage Type.
      iii. Balconies shall provide 8-feet minimum clear height above the finished grade, or 13-feet
         6-inches minimum clear height above the finished grade above any area used for
         vehicular parking or circulation, or emergency vehicle access.
      iv. The Balcony platform shall be at least 3-inches thick, and where the underside of a
         balcony is visible from a public way it shall be finished. Balconies may or may not
         incorporate a roof, Canopy or Awning, but shall not be enclosed.
      v. Decks shall be permitted only in the Third Lot Layer or on rooftops.
      vi. Decks may include a Canopy, Awning or free-standing pergola, but shall not be enclosed.

h) Awning and Canopies: Awnings and Canopies are encouraged as a traditional street-level
   store-front fitting to accent and provide shade and/or shelter over a primary entrance, display
   windows, or outdoor seating. Awnings and Canopies may also be found above upper story
   windows and Balconies, and over secondary entrances. Where provided, such all Awnings and
   Canopies placed on a Facade shall meet the following specifications:
      i. Awnings and Canopies shall provide 8-feet minimum clear height above the finished
         grade (A), and shall project a minimum of 6-feet from the Façade (B) to a maximum of
         2-feet from the curb (C). 13-feet 6-inches minimum clear height above the finished
         grade shall be provided above any area used for vehicular parking or circulation, or
         emergency vehicle access (A).
ii. First floor Awnings and Canopies shall project a minimum of 3-feet from the Façade (B) or Elevation to which it is attached to a maximum of 2-feet from the curb (C). Awnings and Canopies on upper story windows may project no more than 5-feet from the Façade. Awnings that cannot project a minimum of 3-feet due to the small size of the opening, shall project a minimum of 50% of the height of the opening (e.g. a window that is 4-ft tall shall project at least 2-ft).

ii.iii. Awnings and Canopies shall be placed, sized, shaped, and proportioned to match the associated openings, or width of the associated Frontage, and shall be consistent in materials, color, and design across the same Façade, Frontage Type, or architectural bay.

ii.iv. Awnings and Canopies that span across an entire Façade Frontage shall be fixed no higher than the top of the first story.

iv. All awnings and canopies used within an individual Frontage Type shall be consistent in materials, color, and design.

v. Awnings and Canopies shall not be internally illuminated or backlit, however they may contain lighting fixtures intended to illuminate the ground beneath when covering a Building entrance.

v.vi. Awnings and Canopies may incorporate signage pursuant to the requirements of Article 7.

vi.vii. Awnings shall have an internal or external structural framework of steel/aluminum or other appropriate, durable structural material supporting a thin, non-translucent covering material with a matte finish such as painted metal, acrylic, canvas, or synthetic fabric. The Awnings design shall not include a soffit, and c- or side-panels. Retractable awnings are encouraged. Columns or posts extending to the ground are prohibited within the public right-of-way. Retractable Awnings are encouraged.

vi.viii. Awnings shall be typically rectangular in elevation and triangular in cross-section, with shall have straight edges with no arcs or curves, and may be pitched to shed water off to the side when placed over a Building entrance. The valance of the Awnings shall be no more than 12-inches in height (D).

ix. Canopies are typically rectangular in both elevation and in cross-section, shall have straight edges with no arcs or curves, and may be pitched enough to shed water off to the side when placed over a Building entrance. The faces of the Canopy shall be no more than 24-in in height (D).

x. Canopies shall be constructed of steel/aluminum or other appropriate, durable structural material, and the Canopy may be clad in metal panel, wood, or other durable finished material.
Canopy design shall may include a flat roof be or be left open to from above without a roof using louvers or slats instead to provide shade, and the exterior faces of the canopy should be no more than 24 in in height (D).

Canopies projecting into the public right-of-way shall be cantilevered or supported from above, and columns or posts extending to the ground are prohibited. Canopies placed outside of the public right-of-way may be partially or fully free-standing.

i). Other:

i. Upper-story open exterior fire stairs shall be located in the Third Lot Layer. They may be located in the Second Lot Layer provided they are enclosed and incorporated and designed in a manner consistent with the overall architectural design of the Building.

ii. Permanent vertical access features (stairs, ramps, etc.) handicapped access ramps located in the First Lot Layer must be integrated into the design of the chosen Frontage Type. Otherwise they must be located in the Second or Third Lot Layer.

iii. All utility service connections shall be underground for new construction.

iv. The footprint area of an Outbuilding may not exceed the footprint area of the Principal Building.

Sec 14.5.15- Courtyard Frontage Type

14.5.8-C - Standards

<table>
<thead>
<tr>
<th>Courtyard Width</th>
<th>12-ft min.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Courtyard Depth</td>
<td>12-ft min. - 35-ft max</td>
</tr>
<tr>
<td>Canopy/Awn</td>
<td>10-ft from Facade max</td>
</tr>
</tbody>
</table>

Projection

Clear Path of Travel to a Principal Entrance

14.5.8-D - Miscellaneous

A maximum of one Courtyard is permitted per Principal Building.
A Courtyard shall remain open to the sky, and may not contain Driveways, parking, loading or service areas, or mechanical equipment or vents.

A Courtyard may include a free-standing Canopy, Awning, umbrellas or pergola, but they shall not be enclosed.

The Courtyard shall be activated as a space for gathering, circulation, outdoor shopping, and/or restaurant seating.

The proportions and orientation of these spaces of a Courtyard should be carefully considered for solar orientation and user comfort.

A Courtyard is considered as part of the Building for the purpose of measuring the Frontage Buildout. All faces of the recessed Courtyard shall be considered to be part of the Façade.

Sec 14.5.15- Forecourt Frontage Type

14.5.15-D - Miscellaneous

A Forecourt occupies the First Lot Layer, and may extend the depth of a maximum required front yard setback to an amount equal to the maximum depth permitted in Sec. 14.5.15-C.

A Forecourt shall remain open to the sky, and may not contain Driveways, parking, loading or service areas, or mechanical equipment or vents.

A Forecourt may include a free-standing Canopy, Awning, umbrellas or pergola, but they shall not be enclosed.

Hardscape coverage requirement may be achieved through a combination of pervious and impervious surface materials.

Sec. 14.6.4- Building Height

a) thru c) - unchanged

d) Basements and Crawl Spaces

i. Exposed basement walls visible along any Frontage shall not exceed 89 (nine-eight) feet in height measured from the exterior finished grade to the finished floor of the Story above.

ii. Unfinished crawl spaces taller than 3 (three) feet shall be screened from view from public Thoroughfares with landscaping.

iii. Unfinished crawl spaces shall not exceed 5 (five) feet in height measured from the exterior finished grade to the finished floor of the Story above.
e) **Grading or Regrading of Sites.** Sites with uneven topography present unique issues in relation to Building height. Buildings on steep slopes shall reflect the pre-construction topography of the site. When a site’s topography is modified, the site shall be graded in such a way to avoid the following features:

i. Retaining walls or unfinished blank walls taller than 4 feet in height along required Principal or Secondary Frontage;

ii. Retaining walls taller than 8 feet in height along the rear or side setbacks; and

iii. The construction of Buildings that do not reflect the preconstruction topography of the site. Illustrations below show appropriate site grading methods.

f)  - unchanged

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### Sec. 14.6.7- Parking and Circulation

a) thru d) – unchanged

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e) **Parking Structures and Garages**

i. With the exception of individual Garages serving a Rowhouse Building Type which shall be located in the Third Lot Layer, all Parking Structures and Garages shall be located:

- within a Principal Building Type and located Underground, above the second Story, and/or in the ground floor when located in the Third Lot layer and separated from the street by an Active Street-level Use; or,

- behind a Perimeter Building (See Section 14.4.11), or enclosed below the finished grade or above the second story within a Principal Building that provides active uses (such as, but not limited to, residential lobby, retail, office, recreational, or services) at the street level along the width of the Frontage a minimum of 20 feet deep.

ii-vi = unchanged

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g) Parking Spaces, Lot Design and Layout

i - ii – unchanged

iii. Stacked and Tandem Parking:  – otherwise unchanged
Sec. 14.6.8- Site and Landscape Standards

a) Purpose and Applicability - unchanged

b) Site Standards:

v. Fences and Free-standing Walls:

A. Fences and Free-standing Walls placed within the First Lot Layer shall not exceed 4-feet in height. Fences and Free-standing Walls placed within the Second or Third Lot Layer shall not exceed 8-feet in height unless a different height limit is specified under the applicable Form District or Frontage Type.

B. Materials used for Fences and Free-standing Walls shall be limited to Brick and tile masonry; Native or sintered stone; Wood – panels, clapboard or shingles; Cementitious siding, metal, and woven or braided cable wire. Chain-link and welded-wire fencing shall not be used along any Frontage Line with the exception of the temporary enclosure of a construction site, or where required by the Building Official to protect public safety. Barbed or razor wire shall not be used in any application. Alternate materials may be approved by the Administrative Officer after seeking input from the Design Advisory Board. Alternate materials must be considered equivalent or better than the materials listed above, and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.

A.C. All fences and free-standing walls shall be installed so that the finished side faces outward towards the adjacent property or public way.

c) Landscape Standards: otherwise unchanged

d) Solid Waste Storage Areas - unchanged

Sec. 14.7 – Administration and Procedures

14.7.1 - Applying for a Zoning Permit: Submission Requirements and Review

a) – unchanged

b) Application Submission. Each application shall be submitted to the Department of Planning and Zoning along in a form to be provided by the Department. Upon its determination that an application is complete, the Department shall process each application in accordance with this Section.

c) – unchanged
d) Modification of Submission Requirements. The Administrative Officer Director may allow the modification of the application and submission requirements listed above, including reducing and/or combining existing and proposed information on the same site plan, provided that any modification enables adequate review of the application. The Administrative Officer Director may also require the submission of additional information when deemed necessary to make a decision on the request. Such additional information may include but is not limited to the following:

(remaining unchanged)

e) - unchanged

f) Review and Approval of Civic Spaces and Civic Buildings.
The creation of new Civic Spaces or Civic Buildings, or the Substantial Modification of an existing Civic Space or Civic Building, shall follow the process as defined below. Any other proposed alteration to an existing Civic Space or Civic Building shall be reviewed and approved by the Director Administrative Officer who shall ensure ongoing compliance with the intent and standards of this Chapter as applicable.

Because of their important civic nature and public use, the design and form of a new or Substantial Modified Civic Space or Civic Building shall be determined after:

• pre-application review and consultation with the departments of City Planning and Zoning, Permitting and Inspections, Community and Economic Development, and Parks, Recreation, Waterfront;

• a pre-application Neighborhood Public Meeting pursuant to Sec. 3.2.1 (d) of the BCDO;

• review and recommendation of the Design Advisory Board; and,

• final review and approval by the Development Review Board.

Remaining section is unchanged
Sec. 14.7.2 - Non-Conformities

In addition to that as specified in Article 5, Part 3 Non-Conformities of the Burlington Comprehensive Development Ordinance, any Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto non-conformity which lawfully existed at the time of adoption of the applicable provisions of this or any Article or any amendment thereto may be continued subject to the following provisions:

a) Nothing in these regulations are intended to prevent normal repair and maintenance necessary to keep a Building, Structure, Site, Improvement or other appurtenance thereto in a safe and sound condition;

b) Any Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto which legally existed on the effective date of this Article that does not conform to the requirements of this Article may continue until a Substantial Modification is requested or Abandonment occurs;

c) Any nonconforming structure may be enlarged, maintained, repaired or altered: provided, however, that no enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part.

d) At such time when a Substantial Modification is requested or Abandonment occurs, only the affected portion(s) of the Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto shall be required to comply with all applicable provisions of this Article, and to the greatest extent practicable in the determination of the Administrative Officer or unless relief is provided by the DRB pursuant to Sec. 14.7.3 below;

b) Any modification other than a Substantial Modification an existing Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto shall be permitted By Right only if such changes result in greater conformance with the specifications of this Article;

c) Any change or modification shall not create any new nonconformity; and,

d) Buildings listed or eligible for listing on the State or National Register of Historic Places shall not be required to make any modifications under a) and b) above this section that would threaten their historic integrity.

14.7.3 - Variation from the Form: Administrative Relief, DRB Alternative Compliance, and Variances

The planBTV Downtown Code is intended to result in By-Right approval where development occurs strictly in conformance with the requirements of the applicable Form District. In some instances, however, it may be necessary to vary the prescribed form in order to accommodate...
unique site and/or building circumstances in order to promote context-sensitive development. In such instances, an applicant may seek Administrative or Development Review Board approval for relief from the requirements as set forth below. Any and all relief from the prescribed standards shall run with the land and be binding on the Property Owner and its/their successor and assigns. Applications requesting relief shall be made in writing and in the form as determined by the Department.

a) Administrative Relief. The Administrative Officer shall have the authority to authorize modification of up to 10% from any numerical standard set forth in this Article inclusive of any specific relief set forth in Table 14.7.3-A Administrative Relief below. No other relief from the prescribed standards shall be permitted except as approved by the Development Review Board in b) below.

i. Any request for Administrative Relief shall extend the requirements of 24 VSA 4448(d) regarding Administrative decisions for an additional 30 days in order to provide for opportunities for public notice and comment pursuant to Departmental procedures.

ii. Decisions by the Administrative Officer Director regarding any Relief granted shall be made in writing and upon affirmative findings that:

A. The relief granted is the minimum necessary to achieve the desired result;
B. Granting the relief will yield a result equal to or better than in strict compliance with the standard:
C. The property will otherwise be developed consistent the purpose of this ordinance, the intent of the Form District, the intent and purpose of the section that the relief is being sought, and all other applicable standards; and,
D. Any additional findings as may be required by Table 14.7.3-A Administrative Relief as follows:

Table 14.7.3-A - Administrative Relief

<table>
<thead>
<tr>
<th>Type of Relief</th>
<th>Limits of Relief Granted</th>
<th>Required Findings</th>
<th>Standards Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glazing Voids:</td>
<td>Maximum of 10% from the required Glazing voids</td>
<td>The relief is necessary to meet the requirements of a High Performance Building Energy Code or program.</td>
<td>Section 14.4: Specific to Building Types, Table 14.4.1513- A Street Activation = Primary and Secondary Façade, and Section 14.5: Specific to Frontage Types Section 14.4: Specific to Building Types, Table 14.4.13-</td>
</tr>
<tr>
<td>Glazing Voids:</td>
<td>Maximum of 10% of the required linear distance between windows voids</td>
<td>The relief is necessary for the creation of stronger distinctions between</td>
<td></td>
</tr>
</tbody>
</table>

The relief is necessary to meet the requirements of a High Performance Building Energy Code or program.
A reduction in the maximum linear distance between window openings voids individual Frontage Types and/or at Building corners.

remaining unchanged

b)-c) - unchanged

Sec. 14.8 - Glossary

**Active Street-level Use:** a use or activity within a space that is regularly frequented and actively utilized by workers, residents, guests, and/or patrons of the Principal Use; invites direct access from the public sidewalk or Civic space; and, provides visual interest and engagement to pedestrians on the adjacent sidewalk. Active street level uses generally include, but are not limited to retail, restaurants, bars, entertainment, hospitality, professional and personal services, libraries, institutional, educational and cultural facilities, office, residential, and entrance lobbies. Active Street-level Uses do not include those intended for parking, storage, mechanicals, utilities, and other substantially similar secondary or accessory uses and spaces.

**Awning:** A fixed or retractable wall mounted frame covered with fabric or other pliable material that provides decoration and shade and weather protection over a patio, window, storefront, or Building entrance.

**Balcony:** A wall-mounted projecting platform with a railing accessible from an upper story doorway that provides outdoor amenity space above the first floor.

**Canopy:** A fixed wall mounted or stand-alone rigid structure that provides decoration and shade and weather protection over a patio, window, storefront, or building entrance.

**Deck:** A roofless, raised platform on the ground or on top of a roof that is accessible from a secondary entrance that provides outdoor amenity space.

**Department:** The Department of Permitting and Inspections.

**Thoroughfare:** a public or private way for use by public vehicular, pedestrian, and bicycle traffic that provides Access to Lots and Open Spaces, and incorporates vehicular lanes and Public Frontages.

**Streetscreen:** a freestanding hedge, fence or wall of between 3.5 and 8 feet in height built (a) along the Frontage Line or (b) on the same plane as the façade of the Building to Screen a Parking Lot, Parking Area or Loading Area, provide privacy to a side yard or rear yard, and/or strengthen the spatial definition of the public realm. A Streetscreens may have include an openings no larger than necessary 4-feet to allow automobile and enable pedestrian Access, and may be no longer than 20-ft or 20% of the Frontage whichever is less.