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TO: Burlington Planning Commission
FROM: Meagan Tuttle, AICP, Director
DATE: March 17, 2022
RE: Proposed Amendment ZA-22-06 Transitional Shelter

Overview & Background

In the December 2021, Mayor Weinberger announced the "[10 Point Housing Action Plan](#)" to serve as a roadmap with two main goals: to double the rate of housing production within the city over the next 5 years, and end chronic homelessness in Burlington. The action plan includes a number of financial investments, resources expansion, and zoning policy changes to achieve these goals.

The proposed amendment corresponds to a several of the initiatives included in the action plan, and comes at the request of the Community & Economic Development Office. As a result of the Covid-19 pandemic, there has been a significant increase in the number of people experiencing homelessness in Burlington. It is anticipated that there will be a further increase in the number of people without access to shelter when and if the state's general assistance emergency housing program restricts eligibility for and access to hotel rooms for people experiencing homelessness in the spring of this year. CEDO has identified a need to increase the City's low- and no-barrier shelter capacity, which is an important tool for filling gaps in the Coordinated Entry/Continuum of Care system.

The action plan includes an initiative to invest in approximately 30 shelter pods and related infrastructure to create a new low-barrier facility for 2022. These pods are envisioned to be similar to [Seattle, WA Tiny House Villages](#), and other models that have been used successfully in other cities as a bridge to permanent housing, and as a cost- and time-effective way to provide shelter for the most vulnerable in the very near term. Unlike traditional emergency shelters, these models include a collection of temporary facilities to provide safe, durable shelter for a limited time. These facilities include individual shelters pods ranging from 60-120 sq.ft. with heat and electricity, but not plumbing, and space for sleeping and storing personal items; shared bathroom facilities in the form of either existing on-site facilities or portable or custom modules; and on-site services for property management and coordinated services for guests.

While a zoning amendment was not initially included in the action plan for this initiative, CEDO's work to implement this concept has identified a number of limitations to the existing Emergency Shelter standards. This amendment is modeled from zoning policies that enabled Seattle's Tiny House Villages, by establishing permitting and regulatory tiers for emergency shelters based on the permanence of the facilities and the duration of their operation.

At the March 8 meeting, the Commission discussed two aspects of this proposed amendment: requirement for neighborhood notice and operational standards for interim facilities. CEDO continues to work to identify details for the location and management of such a shelter site, including the standards for service provision and operation as noted in the proposed amendment below. More information will be shared at the upcoming meeting. The following proposal has been modified to address neighborhood communications.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

To amend the definition of and standards for Emergency Shelters to allow for managed temporary shelter facilities as an additional form of shelter for people experiencing homelessness.

Proposed Amendments

The following amendments to the *Burlington Comprehensive Development Ordinance* are included in this proposal:

1. Amend definition of Emergency Shelter to accommodate interim facilities

Updates the definition to include a broader range of potential facility types, and remove references to standards that are duplicative of *Sec. 5.4.13*.

2. Create two tiers for emergency facilities within *Sec. 5.4.13 Emergency Shelter* and specifies that interim shelter facilities are permitted in most districts

Establishes standards for Interim Facilities in *Sec. 5.4.13*, which are intended to be temporary shelter facilities operating with fewer regulatory standards, but for a maximum of 5 years with an annual renewal required. Maintains existing Emergency Shelter standards from *Sec. 5.4.13* as standards for Permanent Facilities. Additionally, amends footnotes applicable to Emergency Shelters in Appendix A- Use Table to refer to interim facility provisions in *Sec. 5.4.13*.

3. Authorizes the administrative officer to review applications for Interim Facilities

As temporary facilities, limited to operation on City-owned property or in coordination with the City, and with fewer applicable standards to review, Interim Emergency Shelters are included in *Sec. 3.2.7 (a)*, which authorizes the administrative officer to certain COA Level II applications.

Begin proposed amendments

Section 13.1.2 Definitions

Emergency Shelter: ~~Managed overnight shelter structure, or an interim arrangement of temporary facilities including tents, modular "pods," vehicles, and the like, for sleeping and other with supportive services for homeless persons that is limited to temporary occupancy, typically 180 consecutive nights or less, by a homeless persons experiencing homelessness. Provide shelter only overnight.~~

Commented [MT1]: This is captured in 5.4.13. does not need to be duplicated in the definition.

Sec. 5.4.13 Emergency Shelters

Emergency shelters shall be subject to the following:

Table 5.4.13 Emergency Shelter Standards

Standard	Interim Facilities	Permanent Facilities
Location	Permitted Use in all zoning districts except UR, DW-PT, RCO-C and RCO-A. Must be property owned or controlled by the City of Burlington, or on private property with an operating agreement with the City of Burlington for an interim shelter.	Conditional Use in districts which permit housing uses generally (See Appendix A)

Commented [MT2]: This new table seeks to make a distinction between interim/temporary shelters and permanent shelter facilities. The standards that are in the "Permanent Facilities" captures and makes no changes to the standards for Emergency Shelters currently included in *Sec. 5.4.13*. Only the standards in the "Interim Facilities" column are new.

	<u>Permitted for up to one year, may be renewed annually. Duration beyond 3 years must meet requirements of a permanent facility.</u>	
Use	<u>May be the primary use of a property, or it may be accessory to another primary use on a property.</u>	
Site Standards	<ul style="list-style-type: none"> • <u>Minimum site area of 5,000 sq.ft.</u> • <u>Screening shall be installed along all site boundaries, including those fronting on a public street</u> • <u>Exempt from Article 8 standards</u> 	<ul style="list-style-type: none"> • <u>All dimensional standards for the underlying zoning per requirements of Article 4 shall be applicable</u> • <u>Design review standards of Article 6 as applicable</u>
Density	<ul style="list-style-type: none"> • <u>Limited to fifty (50) guests</u> 	<ul style="list-style-type: none"> • <u>Within residential zones, per the residential density limits of Article 4. For the purposes of density calculations, every four (4) beds shall count as one (1) dwelling unit.</u> • <u>Within neighborhood mixed use zones, limited to fifty (50) beds</u> • <u>Within FD5 and FD6, no density limit</u>
Notice	<u>Shall be required to hold a Pre-application Neighborhood Meeting per Sec.3.2.1 (d)</u>	<u>As required per Conditional Use review</u>
Occupancy	<u>Overnight stays by any individual are limited to 180 consecutive days. An extension of up to 60 days may be provided if no alternative housing is available.</u>	
Management	<u>There shall be onsite management by qualified adults during all hours of operation with at least 1 management person for every 25 beds/persons.</u>	
	<u>Prior to application, CEDO must approve an operations plan</u>	

site and design review standards in Art 6.

In addition to conditional use standards where applicable, proposals for all new emergency shelters shall comply with the following requirements:

- (a) ~~All dimensional standards for the underlying zoning per the requirements of Art. 4 shall be applicable;~~
- (b) ~~Density within the residential zones shall be per the residential density standards of Article 4. For the purposes of density calculation for emergency shelters, every four (4) beds shall count as one (1) dwelling unit;~~
- (c) ~~Density within the neighborhood mixed use zones shall be limited to fifty (50) beds, and there is no density limit in the downtown or downtown transition zones;~~
- (d) ~~Overnight stays by any individual are limited to 180 consecutive days. An extension of up to 60 days may be provided if no alternative housing is available;~~

- ~~(e) There shall be onsite management by qualified adults during all hours of operation with at least 1 management person for every 25 beds; and,~~
- ~~(f) An emergency shelter may be the primary use of a property, or it may be accessory to another primary use on a property.~~

Sec. 3.2.7 Administrative Review and Approval

Pursuant to the provisions of 24 V.S.A. Section 4464(c), this section provides for the administrative review and approval of new development and amendments to previously approved development

(a) Administrative Authority:

The administrative officer is hereby authorized to undertake the review and approval of those applicable applications subject to the planBTV: Downtown Code under Sec. 14.7.1 e) i and all of the following types of applications:

1. Basic;
2. Awning;
3. Fence;
4. Sign;
5. COA Level I; and,
6. Lot Line Adjustment.

In addition, the administrative officer is hereby authorized to undertake the review and approval of certain COA Level II applications subject to the following thresholds and conditions:

7. Granting of parking waivers for up to ten spaces in the NMU zones where there is a change of use from one non-residential use to another wholly within an existing building;
8. Waivers for residential parking in tandem situations where there is one space behind one other, usually in a driveway;
9. Additions to single family houses in a design control district located 200-feet or more from the lakeshore and that are 50% or less of the existing gross floor area of the principal structure;
10. Simple renovations in design control districts such as door and window changes, re-siding, re-roofing, enclosing porches, adding a shed or garage, and additions no greater than 500 square feet in size that otherwise comply with all applicable dimensional standards of Art. 4 and the development review criteria of Art. 6;
11. Compliance with conditions of approval as specified in a written decision of the DRB; and,
12. Minor amendments to development applications previously approved by the DRB where the proposed amendment otherwise qualifies for administrative review as a COA Level I application or under the planBTV: Downtown Code under Sec. 14.7.1 e) i and will not substantively alter any findings of fact or DRB decision and related conditions of approval.

~~12.13. Emergency Shelters-Interim Facilities, where all provisions of Sec. 5.4.13 are met.~~

End proposed amendments

Relationship to planBTV

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

Theme	Dynamic	Distinctive	Inclusive	Connected
Land Use	Conserve	Sustain		Grow

Compatibility with Proposed Future Land Use & Density

In limited cases, the proposal enables interim emergency shelters where permanent shelters would otherwise not be permitted. This amendment is intended to provide for a flexible, a temporary solution to expanding available low and no barrier beds within the emergency shelter system to address acute shortages.

Impact on Safe & Affordable Housing

planBTV: Comprehensive Plan identifies the need to strengthen the city's approach to homelessness, including by providing more short-term and emergency housing opportunities, while also expanding access to permanent housing and wrap-around services. This proposal provides flexibility for interim shelters to be utilized when the community experiences demand for shelter that is beyond the capacity in other shelter facilities. While not a replacement for permanent affordable housing, these shelters may act as a bridge to other forms of housing.

Planned Community Facilities

This amendment facilitates the implementation of a proposed shelter pod community identified as an emergency shelter solution in the Mayor's 2021 Housing Plan.

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff, upon request of CEDO	Presentation to & discussion by Commission 3/8/22	Approve for Public Hearing	Public Hearing	Approved & forwarded to Council
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption

Proposed ZA-22-06: Appendix A-Use Table

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Emergency Shelter ³⁴	N	N	N ³¹	N	N ³¹	CU ³¹	CU ³¹	CU ³¹	N	CU ³¹	CU ³¹	CU ³¹	CU ³¹	N ³¹	N ³¹

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

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

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