

CITY OF BURLINGTON

ORDINANCE \_\_\_\_\_

Sponsor: Office of City Planning,  
Planning Commission, Ordinance  
Committee

Public Hearing Dates: \_\_\_\_\_

In the Year Two Thousand Twenty-Two

First reading: \_\_\_\_\_

Referred to: \_\_\_\_\_

Rules suspended and placed in all  
stages of passage: \_\_\_\_\_

Second reading: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE –  
Historic Preservation Rehabilitation Bonus  
ZA #22-01

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

1 That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of  
2 Burlington be and hereby is amended by amending Sections 4.4.5(d), {Residential} District Specific  
3 Regulations, 5.3.4(a), {Nonconforming Uses} Changes and Modifications, and 5.4.8(e) Historic Building  
4 Rehabilitation Bonus, thereof to read as follows:

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6 **Sec. 4.4.5 Residential Districts**

7 (a) – (c) As written.

8 **(d) District Specific Regulations:**

9 The following regulations are district-specific exceptions, bonuses, and standards unique to the residential  
10 districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this  
11 ordinance and district standards as provided above.

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13 **1. – 4.** As written.

14 **5. Uses**

15 **A. Exception for Existing Neighborhood Commercial Uses.**

16 Neighborhood commercial uses as defined in Article 13 and intended to primarily serve the nearby  
17 residential area shall be considered permitted uses in all ~~Residential~~ **and Institutional** districts  
18 subject to the following:

19 (i) This exemption shall only apply to:

20 1) Historic ~~neighborhood commercial~~ buildings that are listed or eligible for listing on the  
21 state or national register ~~and originally designed and constructed for such purpose(s);~~  
22 or,

23 2) A street level neighborhood commercial use as defined in Article 13 in lawful existence  
24 as of January 1, 2007.

25 (ii) – (v) As written.

26 (vi) Hours of operation shall be limited to 6:00am to 11:00pm seven days per week. Any  
27 expansion in the hours of operation of an existing neighborhood commercial use shall  
28 require conditional use review by the DRB.

29 (vii) – (ix)

30 **6. Residential Development Bonuses.**

31 The following exceptions to maximum allowable residential density and dimensional standards in  
32 Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set  
33 forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this  
34 ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

35 **A. Senior Housing Bonus.** As written.

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37 ~~**B. Adaptive Reuse Bonus:**~~  
38 ~~Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted~~  
39 ~~by the DRB subject to conditional use review for the conversion of an existing non-~~  
40 ~~conforming nonresidential principal use within a historic building to a conforming residential~~  
41 ~~use subject to all of the following conditions:~~  
42 ~~i. The building shall be listed or eligible for listing in the United States Department of the~~  
43 ~~Interior’s National Register of Historic Places or the Vermont State Register of Historic Places;~~  
44 ~~ii. The gross floor area shall not exceed the pre-redevelopment gross floor area of the~~  
45 ~~existing structure by more than twenty-five (25) percent;~~  
46 ~~iii. The density limits of the underlying residential zoning district in Sec 4.4.5(b) above~~  
47 ~~shall not apply. The intensity and extent of development shall be limited by gross floor area~~  
48 ~~maximum in (ii) above and Table 4.4.5-6 below;~~  
49 ~~iv. The adaptive reuse and rehabilitation conforms to the requirements of Art 5, Historic~~  
50 ~~Buildings;~~  
51 ~~v. Neighborhood commercial uses less than 2,000 sqft gross floor area may be permitted~~  
52 ~~by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A) above. Neighborhood~~  
53 ~~commercial uses 2,000 sqft or larger in gross floor area shall not be permitted. In combination,~~  
54 ~~the sum of neighborhood commercial uses shall be limited to no more than 50% of the gross~~  
55 ~~floor area of the existing structure; and,~~

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~~vi. Lot coverage shall not exceed:~~

*Table 4.4.5-6: Adaptive Reuse Bonus*

<b>District</b>	<b>Maximum Coverage</b>
<b>RL, RL-W</b>	Greater of 50% (62% with inclusionary allowance), or expansion up to a total of 125% of pre-existing building coverage.
<b>RM, RM-W</b>	Greater of 60% (72% with inclusionary allowance), or expansion up to a total of 125% of pre-existing building coverage.
<b>RH</b>	Greater of 80% (92% with inclusionary allowance), or expansion up to a total of 125% of pre-existing building coverage.

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70 ~~1.~~ **C. B. Residential Conversion Bonus.**

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use ~~not involving a historic building~~ to a conforming residential use subject to all of the following conditions:

~~(i) Any structure proposed for demolition shall not be listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places; and,~~

~~(i)~~ ~~(ii)~~ Lot coverage and residential density shall not exceed:

*Table 4.4.5-7: Residential Conversion Bonus*

<b>District</b>	<b>Maximum Lot Coverage</b>	<b>Maximum Density</b> (dwelling unit/acre)
<b>RL, RL-W</b>	50% (62% with inclusionary allowance)	8 du/ac (8.75 with inclusionary allowance)
<b>RM, RM-W</b>	60% (72% with inclusionary allowance)	30 du/ac (37.5 with inclusionary allowance)
<b>RH</b>	80% (92% with inclusionary allowance)	60 du/ac (69 with inclusionary allowance)

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**D. Limitations on Residential Development Bonuses:**

For projects where the conditions of more than one applicable bonus listed above and under Sec. 5.4.8 (e) are met, the applicant may use the most permissive exemption to the underlying lot coverage or residential densities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density, lot coverage and building height permitted in any district as defined below:

**Table 4.4.5-8: Maximum Density, Lot Coverage and Building Heights with Bonuses**

District	Maximum Density*	Maximum Height	Maximum Lot Coverage*
RH	80 du/ac	45-feet (68-ft in RH Overlay)	92%
RM-W	40 du/ac	60-feet	72%
RM	40 du/ac	35-feet	<del>60</del> 72%
RL, RL-W	20 du/ac	35-feet	<del>50</del> 62%

\* - or 125% of the pre-application gross floor area or coverage of the qualifying principal building as may be applicable per Table 5.4.8-1 Historic Building Rehabilitation Bonus

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**Sec. 5.3.4 Nonconforming Uses**

**(a) Changes and Modifications:**

A nonconforming use may be changed to a conforming use pursuant to all applicable provisions of this ordinance. When a nonconforming use has been made conforming, it shall not be made nonconforming again.

Any change or modification to a nonconforming use, other than to full conformity under this Ordinance, shall only be allowed as specified below and shall require conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB.

**1. Nonconforming Non-Residential Use:**

A nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance, except as follows:

**A. Exception for residential conversion.**

A non-residential nonconforming use may be converted to a residential non-conforming use pursuant to the applicable ~~adaptive reuse or~~ residential conversion provisions of Sec. 4.4.5(d)(~~67~~).

**B. Existing Neighborhood Commercial Uses.**

Existing non-residential uses intended to primarily serve the nearby residential area shall not be considered non-conforming to the extent they comply with the provisions of Sec. 4.4.5(d)(~~56~~).

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**2. Nonconforming Residential Use:**

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A change or expansion of a non-conforming residential use may be allowed subject to conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB provided:

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A. Such an expansion does not add any additional dwelling units except as may be permitted for ~~adaptive reuse or~~ residential conversion bonuses approved per the provisions of Sec.

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4.4.5(d)(~~67~~), the Historic Building Rehabilitation Bonus under Sec. 5.4.8 (e), and or for

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Accessory Dwelling Units per the provisions of Sec. 5.4.5;

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B. – C. As written.

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(b) As written.

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**Sec. 5.4.8 Historic Buildings and Sites**

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The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

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• To preserve, maintain and enhance Burlington’s historic character, scale, architectural integrity, and cultural resources;

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• To foster the preservation of Burlington’s historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

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• To promote a sense of community based on understanding the city’s historic growth and development, and maintaining the city’s sense of place by protecting its historic and cultural resources; and,

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• To promote the adaptive re-use of historic buildings and sites.

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(a) – (d) As written.

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(e) Historic Building Rehabilitation Bonus:

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In order to facilitate the rehabilitation and reuse of historic buildings in Residential and Institutional districts, development in excess of the limits set forth in Tables 4.4.4-1, 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to all of the following conditions:

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(i) The principal building shall be listed or eligible for listing in the United States Department of the Interior’s National Register of Historic Places or the Vermont State Register of Historic Places;

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(ii) The density limits of the underlying zoning district in Sec 4.4.4(b) and 4.4.5(b) shall not apply. The extent of development shall instead be limited to an expansion up to a total of 125% of pre-application gross floor area of the qualifying principal building in (i) above;

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(iii) The rehabilitation conforms to the requirements of Sec. 5.4.8 (b) above;

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(iv) Neighborhood commercial uses may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A); and,

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(v) Lot coverage shall not exceed:

*Table 5.4.8-1: Historic Building Rehabilitation Bonus*

<u>District</u>	<u>Maximum Coverage</u>
<u>RL, RL-W, I</u>	<u>Expansion up to a total of 125% of pre-application principal building coverage.</u>
<u>RM, RM-W</u>	<u>Expansion up to a total of 125% of pre-application principal building coverage.</u>
<u>RH</u>	<u>Expansion up to a total of 125% of pre-application principal building coverage.</u>

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152 \* Material stricken out deleted.

153 \*\* Material underlined added.

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155 tm/KS: Ordinances 2021/Zoning Amendment – ZA 22-01, Historic Preservation Bonus

156 Secs. 4.4.5(d), 5.3.4(a), 5.4.8(e)

157 2/17/22