

CITY OF BURLINGTON

ORDINANCE _____

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

Public Hearing Dates: _____

In the Year Two Thousand Twenty-One

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 –
Shoreline Property Setbacks & Buffer
ZA #21-06

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 Table 4.4.5-3, Residential District Dimensional
3 Standards, and Section 4.5.4, Natural Resource Protection Overlay (NR) District, to read as follows:

4 Sec. 4.4.5 Residential Districts

5 (a) Purpose:

6

7 As written.

8 (b) Dimensional Standards and Density

9 The density and intensity of development, dimensions of building lots, the heights of buildings and
10 their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the
11 following standards:

12 Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W

13

14 As written.

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16 Table 4.4.5-2: Base Residential Density

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18 As written.

19

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ^{2, 7}	Side ³	Rear	Waterfront	
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on	Min: 10% of lot width Or ave. of side	Min: 25% of lot depth but in no	Min: 75' feet from the ordinary	35-feet

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ^{2,7}	Side ³	Rear	Waterfront	
		both sides +/- 5-feet	yard setback of 2 adjacent lots on both sides Max required: 20-foot	event less than 20' Max required: 75-feet	high water mark of Lake Champlain and the Winooski River	
RM	40%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-foot	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet
WRM	60%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-foot	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet (60-feet under Sec. 4.4.5(d)2A)
RH	80%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent	Min: 25% of lot depth but in no event less than 20'	NA	35-feet

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ^{2,7}	Side ³	Rear	Waterfront	
			lots on both sides Max required: 20-feet	Max required: 75-feet		
<ol style="list-style-type: none"> 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. <u>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.</u> 						

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21 (c) Permitted and Conditional Uses:

22 As written.

23 (d) District Specific Regulations:

24 As written.

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26 Sec. 4.5.4 Natural Resource Protection Overlay (NR) District

27 (a) *Purpose and Authority:*

28 The Natural Resource Protection Overlay District is intended to:

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

52 (b) *Areas Affected*

53 As written.

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

55 **1. Permitted Uses:**

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

- 59 A. Normal maintenance of existing lawns and maintained grounds including mowing, trimming of
60 vegetation and the removal of dead or diseased vegetation around a residence, decorative landscaping
61 and planting, vegetable and flower gardens, and the repair of existing private landscaping structures
62 such as walkways and walls;

- 63 B. “Accepted agricultural and silvicultural practices” as defined under 24 VSA Ch 117;
- 64 C. Normal maintenance of constructed wetlands and stormwater systems, provided that naturally
65 occurring wetlands are not disturbed in conjunction with the maintenance;
- 66 D. Normal maintenance of existing docks, roads, rail lines, bridges, and culverts provided that disturbance
67 to any shoreland is minimized in conjunction with such maintenance;
- 68 E. Selective cutting of less than 25 percent of the trees six inches or more in diameter at breast height over
69 any 10 year cycle; and,
- 70 F. Recreational and educational activities such as hiking, walking, fishing, nature study, and bird watching
71 and associated boardwalks and unimproved trails.

72 **2. Prohibited Uses:**

73 Except where noted herein, the following uses shall be prohibited within the Riparian and Littoral
74 Conservation Zone and its associated buffer.

- 75 A. The deposition or introduction of organic and inorganic chemicals, including herbicides and pesticides,
76 except when the application of pesticides is reviewed and approved by the BCB and DRB, and
77 performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of
78 controlling invasive species and subject to the requirements of the City’s pesticide application
79 ordinance (Burlington Code of Ordinances, Chapter 17, Section 9); and,
- 80 B. The off-road use of any motorized vehicles including ATVs or dirt bikes (the temporary use of
81 motorized vehicles used to construct and maintain permitted or regulated activities are specifically
82 exempted from this prohibition);

83 **3. Regulated Uses:**

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

89 **4. Requirements:**

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

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

99 For properties with frontage along Lake Champlain or the Winooski River, development that includes
100 400 square feet or more of new or redeveloped lot coverage shall establish a low-mow zone along the
101 shoreline. A low-mow zone is a new or existing vegetated area that is not mowed more than once per

102 year and allows vegetation to grow and mature. (Refer to Shoreland Best Management Practices
103 established by Vermont Department of Environmental Conservation.). A low-mow zone shall be at
104 least 15 ft. wide as measured inland from the 100 ft. elevation and shall be of a size equivalent to, or
105 greater than, the new or redeveloped lot coverage, except that in no event shall a low-mow zone be
106 required to extend more than 50 ft. wide as measured inland from the 100 ft. elevation or extend along
107 more than 80% of a property's shoreline frontage.

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

- 110 2. Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of
111 Water Quality;
- 112 3. Installation of any seawalls, rip-rap or other shoreland retention structures shall be submitted for review
113 by the conservation board who shall consult with the city engineer prior to issuance of a
114 recommendation to the DRB; and,
- 115 4. No new stormwater outfall shall directly discharge into any surface water without approval and
116 implementation of a stormwater management plan approved by the city engineer.

117 (d)-(f) As written.

118 * Material stricken out deleted.

120 ** Material underlined added.