



City of Burlington, VT
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www.burlingtonvt.gov/plan

TO: Burlington City Council
Mayor Weinberger

FROM: David E White, FAICP, Dir. of Planning
Scott Gustin, AICP, DPI Principal Planner & Zoning Division Manager

DATE: August 2, 2021

RE: ZA-21-08 Act 179 Changes to Ch. 117

Overview & Background

The Vermont legislature passed Act 179 (S.237) in September 2020, and the bill was signed into law on October 12, 2020. Among other things, this act included multiple changes to state enabling law (24 VSA Ch 117) intended to promote greater access to affordable housing. Specifically relevant to Burlington are 3 changes that require amendment to the *Comprehensive Development Ordinance (CDO)* in order to conform with these changes in state statute. These are:

- amending the definition and some requirements for accessory dwelling units
- requiring that certain "small lots" must be unable to connect to municipal water and sewer in order for a municipality to prohibit development on it
- prohibiting a municipality from denying dwellings of four or fewer units in districts that allow multi-unit dwellings based solely on the character of the area when conducting a conditional use review

The Planning Commission discussed each of these issues on Feb 23, 2021, and supported recommended staff changes applicable to sections of the *CDO* relative to Accessory Dwelling Units and Existing Small Lots. The Commission referred the issue of conditional use review for small multi-unit buildings to its Ordinance Committee for additional discussion.

The Commission's Ordinance Committee discussed the provisions related to conditional use review of multi-unit buildings between two and four units on March 4, 2021. Staff presented 4 possible approaches, with an overall recommendation which centered on removing conditional use review for all residential uses across the city. The staff recommendation that conditional use is not appropriate for residential uses located within a residential district is based on a number of factors, including:

- residential uses permitted or prohibited within each district should be more consistent with the purpose statement of the zoning districts involved (i.e. allowing duplexes as a permitted use in RL)
- there is regulatory redundancy between Conditional Use Review and Major Impact Review for multi-unit housing; ultimately Major Impact Review is more appropriate for considering changes in residential intensity
- Appendix A currently creates confusion between regulating use vs. regulating building type (ie. "Attached Dwelling(s) – Mixed-Use" is a building type, not a use).

The Planning Commission recommended these changes to the City Council following its public hearing on July 27, 2021. It simultaneously referred a request to its own ordinance Committee to contemplate additional ways to incentivize some types of ADUs through the ordinance.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The proposed amendment addresses recent changes to the state enabling statute, ensuring that the CDO complies with new standards for ADUs, existing small lots, and small multi-unit dwellings.

Proposed Amendments

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

1. Amend Sec. 5.2.1 Existing Small Lots

This affords additional provisions for the development of existing Small Lots, when those lots can connect to municipal water and sewer infrastructure.

2. Amend Sec. 5.4.5 Accessory Dwelling Units and Sec. 13.1.2 Definitions

This removes bedroom and occupant limits from ADU standards and definitions, and increases the alternative maximum size for ADUs to 900 sq.ft.

3. Amend Appendix A- Use Table

Changes duplex from a Conditional to Permitted use within the RL and RL-W districts; deletes "Attached Dwellings-Mixed Use" and distinguishes between multi-family dwellings of 3-4 units and those with 5 or more units; and changes multi-family dwellings of 3-4 units from a Conditional to a Permitted use in the Institutional district.

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

The proposed amendments, while necessary to maintain compliance with state enabling statutes, are consistent with the land uses and densities proposed in *planBTV*. These changes do not significantly change the overall land uses and densities permitted in residential areas of the city, but is in line with the plan's future land use vision, which anticipates small and incremental changes to residential areas within the context of existing development patterns.

Impact on Safe & Affordable Housing

The proposed amendments have no impact on housing safety, and may serve to improve affordability by reducing the time, cost, and complexity for small multi-family residential development.

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:

Planning Commission Process				
Draft Amendment prepared by: Staff, PC OC review 3/4/21	Presentation to & discussion by Commission 2/23/21, 4/27/21	Approved for Public Hearing 4/27/21	Public Hearing 6/22/21 7/27/21	Approved & forwarded to Council 7/27/21
City Council Process				
First Read & Referral to Ordinance Cmte 08/09/21	Ordinance Cmte discussion	Ordinance Cmte recommend as modified	Second Read & Public Hearing	CCOC Recommends Approval & Adoption
				Rejected