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**TO:** Burlington Planning Commission  
**FROM:** Meagan Tuttle, AICP, Director  
**DATE:** June 23, 2022  
**RE:** Proposed Amendment ZA-22-06 Transitional Shelter

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### **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. While the zoning amendments identified in the action plan did not include changes to emergency shelters, the Community & Economic Development Office's work to implement one of the key initiatives related to homelessness has identified a number of limitations to the city's existing Emergency Shelter standards.

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 coming months. 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. In order to address a small part of this need, 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. More information about this initiative is available on [CEDO's website](#).

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 quickly. 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 social services for guests. This amendment seeks to incorporate provisions and a permitting process that corresponds with both the level of urgency and level of investment associated with a range of emergency shelter models that can be deployed in the city. The enclosed amendment is modeled from aspects of the [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.

There was some confusion at the public hearing about the effect of this proposed amendment. While this amendment originated from discussions about efforts to rapidly deploy interim models of emergency shelter, this amendment is not specific to CEDO's current efforts to establish a shelter at the city-owned Elmwood Avenue lot. CEDO has continued to work separately to identify details for the location, management, and services provided for the proposed shelter site, including pursuing a zoning permit from the DRB under all existing standards for Emergency Shelters. This amendment builds on lessons learned from that process, and seeks to clarify and address standards for circumstances when rapidly deployed shelter solutions might be needed in the future.

**Additional Changes to Draft Amendment**

Before its public hearing, the Commission requested additional information and options for the following questions.

*Is it possible to shorten the applicable timeframe for a temporary permit to one year maximum, with subsequent renewal meeting the permanent facility standards?*

In discussing the logistics of running a temporary emergency shelter with staff in CEDO, it was noted that a shorter operating timeline could present challenges. These include if the community prefers temporary shelters to be located in an area that does not allow emergency shelters today, and the cost and construction pressures associated with building more traditional shelters and permanent housing for individuals to transition to. CEDO did note that a shorter period of applicability for a temporary shelter could still provide a pathway to allow a shelter to open in response to time-sensitive needs while pursuing a permit for a longer-operating site. Another option that was suggested was to allow shelters to operate seasonally as an Interim Facility, such as in the winter when the weather makes safe shelter options especially important.

If the Commission wishes, the standards for Duration on page 3 could be modified to allow an Interim Facility for one year, or seasonally as long as the shelter is not in operation for more than 6 months total within a year. The amendment could be structured to allow these options based on a shelter’s specific needs.

*Is it possible to sunset the applicable zoning regulations entirely, or to set a date certain for review to ensure that new interim facility standards are working as intended?*

It is legally permissible to provide sunset dates within the zoning ordinance. In practice, these sunsets can lead to confusion and can be missed. It is certainly possible for the Commission to recommend the City Council establish a date certain for an evaluation if these changes are adopted. Similar steps have been taken in other communities; in some cases these communities went on to adopt further modifications based on lessons learned and the overall need for various shelter types.

Additional changes recommended by staff are highlighted, as well as areas of the memo and ordinance language that may need to be updated pending the Commission’s discussion of the questions above.

**Proposed Amendment**

**Amendment Type**

<b>Text Amendment</b>	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 3 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 review and approve certain COA Level II applications.

\*\*\*Begin proposed amendments\*\*\*

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

**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.~~

**Sec. 5.4.13 Emergency Shelters**

Emergency shelters shall be subject to the following:

<b>Table 5.4.13 Emergency Shelter Standards</b>		
<b>Standard</b>	<b>Interim Facilities</b>	<b>Permanent Facilities</b>
<b>Location</b>	<p><u>Permitted Use in all zoning districts except UR, DW-PT, and RCO-A and RCO-C districts.</u></p> <p><u>Permitted in the RCO-RG district only where Campground facilities are present on the property.</u></p> <p><u>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.</u></p>	<p><u>Conditional Use in districts which permit housing uses generally (See Appendix A)</u></p>
<b>Duration</b>	<p><u>Permitted for up to one year, and may be renewed annually per 5.4.13 (a). Duration beyond 3 years must receive a new permit that complies with all requirements of a permanent facility.</u></p>	<p><u>No limit</u></p>

<b><u>Use</u></b>	<u>May be the primary use of a property, or it may be accessory to another primary use on a property.</u>	
<b><u>Site Standards</u></b>	<ul style="list-style-type: none"> <li>• <u>Minimum site area of 5,000 sq.ft.</u></li> <li>• <u>Screening shall be installed along all site boundaries, including those fronting on a public street</u></li> <li>• <u>Exempt from Article 8 standards</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>All dimensional standards for the underlying zoning per requirements of Article 4 shall be applicable</u></li> <li>• <u>Design review standards of Article 6 as applicable</u></li> </ul>
<b><u>Density</u></b>	<ul style="list-style-type: none"> <li>• <u>Limited to fifty (50) guests</u></li> </ul>	<ul style="list-style-type: none"> <li>• <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></li> <li>• <u>Within neighborhood mixed use zones, limited to fifty (50) beds</u></li> <li>• <u>Within FD5 and FD6, no density limit</u></li> </ul>
<b><u>Notice</u></b>	<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>
<b><u>Occupancy</u></b>	<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>	
<b><u>Management</u></b>	<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, the encampment operator shall establish an advisory committee, to include community representation, to consult on the creation of AGENCY must approve an operations plan that addresses all criteria in Sec. 5.4.13 (b)</u>	

(a) Any permit issued-duration for an interim facility shall include a prescribed duration of not more than one year, after which the authority and all related permits shall expire. A permit reapplication for up to an additional year may be made prior to expiration, and may be approved upon a review pursuant to this section. No interim facility permit shall remain in effect for more than three (3) years total. A site containing an interim facility shall be restored to its prior use and/or condition upon expiration of the permit. An interim facility may continue beyond three years only upon application for and approval as a permanent facility.

(b) An operations plan for an interim facility must be submitted at the time of application or reapplication, and shall address all of the following:

1. Staffing
2. Support services provided

3. Guest's rights and responsibilities
4. Site and guest security
5. Public health procedures
6. Community relations, including a schedule for community check-in meetings, between any permit reapplications, to discuss how the site is working and identify any possible changes to site management to address challenges and opportunities that arise.

~~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).*

<b>Theme</b>	<b>Dynamic</b>	Distinctive	<b>Inclusive</b>	Connected
<b>Land Use</b>	Conserve	Sustain		Grow

Compatibility with Proposed Future Land Use & Density

In some 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, rapidly deployed, and 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 acute 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 cost-effective and time-effective solutions to acute housing shortages on an as-needed basis. While current efforts to locate a shelter pod community as identified in the Mayor's 2021 Housing Plan is underway, this amendment is more likely to address future or alternative sites.

**Process Overview**

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

<b>Planning Commission Process</b>				
Draft Amendment prepared by: Staff, upon request of CEDO	Presentation to & discussion by Commission 3/8/22, 3/22/22, 4/12/22, 5/10/22, 6/28/22	Approved for Public Hearing 5/10/22	Public Hearing 6/14/22	Approved & forwarded to Council
<b>City Council Process</b>				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption