

Department of Permitting & Inspections

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ZONING ADMINISTRATIVE INTERPRETATION
ZAI 20-02 Nonconformities

<u>Reference:</u>	<i>Burlington Comprehensive Development Ordinance, Article 5, Part 3: Nonconformities</i>
<u>Date:</u>	January 15, 2020

Pursuant to the authority granted to the City's Zoning Administrative Officer under 24 V.S.A. Section 4448, and Article 3, Part 1 of the *Burlington Comprehensive Development Ordinance*, the following administrative interpretation is intended to ensure consistency and clarity in the interpretation and application of the *Burlington Comprehensive Development Ordinance*. Pursuant to Sec. 2.3.5 of the *Burlington Comprehensive Development Ordinance* any decision or act taken by the administrative officer may be appealed to the Development Review Board as specified under the requirements of Article 12.

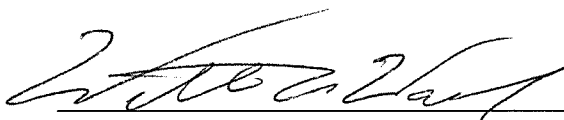
The following policy is to be used in determining whether a lot, structure, or use is a legal nonconformity (i.e. pre-existing nonconformity). Nonconformity is defined in Article 13 of the *Comprehensive Development Ordinance*. A pre-existing nonconformity is a lot, structure, or use that was legal at the time it was created, built, or started but no longer conforms to the ordinance. They were legal prior to a change in the ordinance.

Zoning permit records reaching back to 1973 are available. Before that, only zoning board of adjustment decisions are available and date back to the original 1947 adoption of zoning in Burlington. The lack of zoning permits prior to 1973 inhibits meeting the burden of proof as to whether a nonconformity was permitted prior to 1973.

Policy

Due to concerns about the availability of information/records prior to 1973, any nonconformity that meets the following criteria will be considered a pre-existing nonconformity:

- 1) May have been subject to obtaining zoning permits prior to April 26, 1973;
- 2) Can be documented to have existed prior to that date;
- 3) Has continuously existed thereafter; and,
- 4) Has no City or other germane record to the contrary.


William Ward, Director of Permitting & Inspections