City of Burlington, VT

Comprehensive Development Ordinance

Originally Adopted: January 7, 2008
As amended through: March 31, 2016

City of Burlington
Department of Planning & Zoning
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Burlington, VT 05401
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Burlington

Original Adoption: Planning Commission Public Hearings: 29 & 30 January 2007 Planning Commission Referral: 31 January 2007 City Council Public Hearing Warning: 17 December 2007 City Council Public Hearing: 7 January 2008 City Council Adoption: 7 January 2008 **Effective Date: 30 January 2008**	
Amendments	**Articles/Sections**
ZA-08-01 re: Institutional Zoning Districts: Planning Commission Public Hearing: 12 February 2008 Planning Commission Referral: 12 February 2008 City Council Public Hearing Warning: 29 March 2008 City Council Public Hearing: 14 April 2008 City Council Adoption: 5 May 2008 **Effective Date: 4 June 2008**	**Article 4, Sec. 4.4.4 Institutional Zoning District** Table 4.4.4 -1 Dimensional Standards and Density. **Article 4, Sec. 4.5.2 Institutional Core Campus Overlay Districts** Sec. 4.5.2(c) District Specific Regulations: Fletcher Allen Health Care Campus (ICC-FAHC) and UVM Main Campus (ICC-UVM). Sec. 4.5.2(d) District Specific Regulations: Champlain College (ICC -CC). **Appendix B - Dimensional Standards – All Zoning Districts**
ZA-08-02 re: Trinity Core Campus Overlay: Planning Commission Public Hearing: 6 May 2008 Planning Commission Referral: 3 June 2008 City Council Public Hearing Warning: 30 Aug 2008 City Council Public Hearing: 15 Sept. 2008 City Council Adoption: 22 Sept. 2008 **Effective Date: 21 October 2008**	**Article 4, Sec. 4.5.2 Institutional Core Campus Overlay Districts** (b) Areas Covered. (d) District Specific Regulations: UVM Trinity Campus (ICC -UVMT) **Appendix B - Dimensional Standards – All Zoning Districts**
ZA-08-03 re: Misc. Amendments and Corrections: Planning Commission Public Hearing: 10 June 2008 Planning Commission Referral: 10 June 2008 City Council Public Hearing Warning: 30 Aug. 2008 City Council Public Hearing: 15 Sept. 2008 City Council Adoption: 22 Sept. 2008 **Effective Date: 21 October 2008**	**Article 4 Zoning Districts** Zoning district boundaries for the Urban Reserve and Downtown Waterfront – Public Trust districts (Maps 4.2.2-1, 4.3.1-1, 4.4.1-1, 4.4.7-1 and Sec. 4.5.4 (b)1A) and the RCO-Recreation/Greenspace and Institutional districts (Maps 4.3.1-1, 4.4.4-1, 4.4.6-1); Sec. 4.5.4 Natural Resource Protection Overlay District (b) Areas Covered. (f) District Specific Regulations: Special Flood Hazard Area; **Article 5 Citywide General Standards** renumbering Sec. 5.4.8 (b); Sec. 5.2.3, Sec. 5.2.5, Sec. 5.2.7 re: calculating density and lot coverage on parcels split between zoning districts. **Article 8 Parking** Sec 8.1.12 - Front Yard Parking **Appendix A - Use Table, Article 13 – Definitions** add "Composting" as a Conditional Use in the RCO-Ag Zoning District.

ZA-09-01 re: Electronic Message Display: Planning Commission Public Hearing: 26 August 2008 Planning Commission Referral: 9 September 2008 City Council Public Hearing Warning: 11 October 2008 City Council Public Hearing: 27 October 2008 City Council Adoption: 27 October 2008 **Effective Date: 3 December 2008**	**Article 7 Signs** Section 7.1.3 Exemptions Section 7.1.12 Electronic Message Display **Article 13 – Definitions** Add "Electronic Message Display"
ZA-09-02 re: Mental Health Crisis Center: Planning Commission Public Hearing: 21 October 2008 Planning Commission Referral: 21 October 2008 City Council Public Hearing Warning: 13 November 2008 City Council Public Hearing: 1 Dec. 2008 and 5 Jan. 2009 City Council Adoption: 5 January 2009 **Effective Date: 4 February 2009**	**Article 5 Citywide General Standards** Add Sec. 5.4.11 Mental Health Crisis Center **Article 13 – Definitions** Add "Mental Health Crisis Center"
ZA-09-03 Urban Reserve Temporary Uses: Planning Commission Public Hearing: 21 October 2008 Planning Commission Referral: 9 December 2008 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 5 May 2009**	**Article 2 Administrative Mechanisms** Sec. 2.5.5(b) Conservation Board Powers and Duties **Article 4 Maps and Districts** Sec. 4.4.7(b), (c) and (d) Urban Reserve **Appendix A - Use Table** add reference to Sec. 4.4.7(c)
ZA-09-04 DT District Building Height: Planning Commission Public Hearing: 9 December 2008 Planning Commission Referral: 9 December 2008 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 28 April 2009**	**Article 4 Maps and Districts** Modify Sec. 4.4.1(a)2. Downtown Transition District (DT) Modify Map 4.4.1-1 Add Sec. 4.4.1(d) 4.C King Street Building Height
ZA-09-05 Projecting Signs Allowable Size: Planning Commission Public Hearing: 13 January 2009 Planning Commission Referral: 13 January 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 5 May 2009**	**Article 7 Signs** Modify Table 7.2.1-1
ZA-09-06 Exceptions to Lot Size & Density for RL & WRL: Planning Commission Public Hearing: 13 January 2009 Planning Commission Referral: 13 January 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 5 May 2009**	**Article 4 Maps and Districts** Modify Table 4.4.5-1
ZA-09-07 Minimum Side Setback Clarification: Planning Commission Public Hearing: 13 January 2009 Planning Commission Referral: 13 January 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 5 May 2009**	**Article 4 Maps and Districts** Modify Table 4.4.5-3

ZA-09-08 Parking Lot Shading Requirement: Planning Commission Public Hearing: 13 January 2009 Planning Commission Referral: 9 June 2009 City Council Public Hearing Warning: 7 October 2009 City Council Public Hearing: 26 October 2009 City Council Adoption: 26 October 2009 **Effective Date: 25 November 2009**	**Article 6 Development Review Standards** Modify Sec. 6.2.2 (l)
ZA-09-10 Existing Small Lots Definition: Planning Commission Public Hearing: 13 January 2009 Planning Commission Referral: 13 January 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 28 April 2009**	**Article 5 Citywide General Standards** Modify Sec. 5.2.1
ZA-09-12: FAHC Core Campus Height Overlay Planning Commission Public Hearing: 10 February 2009 Planning Commission Referral: 10 February 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 28 April 2009**	**Article 4 Maps and Districts** Modify Sec. 4.5.2 Add Map 4.5.2-2 Modify Sec.4.5.2-3
ZA-09-13: UVM Core Campus and Height Overlay Planning Commission Public Hearing: 10 February 2009 Planning Commission Referral: 10 February 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 28 April 2009**	**Article 4 Maps and Districts** Modify Sec. 4.3.2, Modify Sec. 4.4.4 Modify Sec. 4.5.2 Add Maps 4.5.2-1, 4.5.2-4 and 4.5.2-5
ZA-09-14: Champlain College Core Campus Planning Commission Public Hearing: 10 February 2009 Planning Commission Referral: 10 February 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 30 March 2009 **Effective Date: 5 May 2009**	**Article 4 Maps and Districts** Modify Sec. 4.5.2 Add Maps 4.4.4-1, 4.5.2-1 and 4.5.2-7 **Article 5 Citywide General Standards** Modify Sec. 5.2.6
ZA-09-15b: Downtown Use and Height (NAC Street Frontage Use only) Planning Commission Public Hearing: 10 February 2009 Planning Commission Referral: 10 February 2009 City Council Public Hearing Warning: 15 March 2009 City Council Public Hearing: 30 March 2009 City Council Adoption: 13 April 2009 **Effective Date: 19 May 2009**	**Article 4 Maps and Districts** Modify Sec. 4.4.2 (d.) 1
ZA-09-16: Stormwater Performance Standards Planning Commission Public Hearing: 26 May 2009 Planning Commission Referral: 9 June 2009 City Council Public Hearing Warning: City Council Public Hearing: 10 August 2009 City Council Adoption: 10 August 2009 **Effective Date: 9 September 2009**	**Article 5 Citywide General Standards** Modify Sec. 5..5.3

ZA-09-17: Street-facing Garage Wall Standards Planning Commission Public Hearing: 26 May 2009 Planning Commission Referral: 9 June 2009 City Council Public Hearing Warning: 7 October 2009 City Council Public Hearing: 26 October 2009 City Council Adoption: 26 October 2009 **Effective Date: 25 November 2009**	**Article 6 Development Review Standards** Modify Sec. 6.2.2 (h)
ZA-10-01 Parallel Sign Height Exemption in E-LM Planning Commission Public Hearing: 8 December 2009 Planning Commission Referral: 16 December 2009 City Council Public Hearing Warning: City Council Public Hearing: 25 January 2010 City Council Adoption: 25 January 2010 **Effective Date: 24 February 2010**	**Article Signs** Modify Table 7.2.1-1 footnote 2 Remove Section 7.2.5 (e)
ZA-10-03 Conditional Use and Major Impact Review Exemptions Planning Commission Public Hearing: 8 December 2009 Planning Commission Referral: 16 December 2009 City Council Public Hearing Warning: City Council Public Hearing: 25 January 2010 City Council Adoption: 25 January 2010 **Effective Date: 24 February 2010**	**Article 3 Applications, Permits and Project Reviews** Modify Section 3.5.3
ZA-10-04 Design Review Overlay District Planning Commission Public Hearing: 6 April 2010 Planning Commission Referral: 26 April 2010 City Council Public Hearing Warning: 13 June 2010 City Council Public Hearing: 28 June 2010 City Council Adoption: 28 June 2010 **Effective Date: 28 July 2010**	**Article 4 Maps and Districts** Section 4.5.1
ZA-10-05 Tree Maintenance Plan Planning Commission Public Hearing: 6 April 2010 Planning Commission Referral: 26 April 2010 City Council Public Hearing Warning: 13 June 2010 City Council Public Hearing: 28 June 2010 City Council Adoption: 28 June 2010 **Effective Date: 28 July 2010**	**Article 3 Applications, Permits and Project Reviews** Modify Sec. 3.1.2 **Article 5 Citywide General Standards** Add Sec. 5.5.4
ZA-10-06 Museum Definition Planning Commission Public Hearing: 6 April 2010 Planning Commission Referral: 26 April 2010 City Council Public Hearing Warning: 13 June 2010 City Council Public Hearing: 28 June 2010 City Council Adoption: 28 June 2010 **Effective Date: 28 July 2010**	**Appendix A - Use Table** Modify "Museum" Add "Museum <10,000 sqft" **Article 13 – Definitions** Modify "Museum"
ZA-10-07 Pine and Flynn NMU Planning Commission Public Hearing: 6 April 2010 Planning Commission Referral: 26 April 2010 City Council Public Hearing Warning: 13 June 2010 City Council Public Hearing: 28 June 2010 City Council Adoption: 28 June 2010 **Effective Date: 28 July 2010**	**Article 4 Maps and Districts** Modify Map 4.3.1-1, Map 4.4.2-1; Modify Sec. 4.4.2 (d) 4.a & b Modify Tables 4.4.2-1 & 4.4.2-2 **Appendix A - Use Table**

ZA-10-07b Pine and Flynn NMU Parking District Planning Commission Public Hearing: 6 April 2010 Planning Commission Referral: 26 April 2010 City Council Public Hearing Warning: 21 July 2010 City Council Public Hearing: 9 August 2010 City Council Adoption: 9 August 2010 **Effective Date: 8 September 2010**	**Article 8 Parking** Modify Map 8.1.3-1
ZA-10-08 Flood Regulations Planning Commission Public Hearing: 11 May 2010 Planning Commission Referral: 1 June 2010 City Council Public Hearing Warning: 8 Sept. 2010 City Council Public Hearing: 27 Sept. 2010 City Council Adoption: 27 Sept. 2010 **Effective Date: 27 Oct. 2010**	**Article 3 Applications, Permits and Project Reviews** Modify Sec. 3.1.2 **Article 4 Maps and Districts** Modify Sec. 4.5.4 **Article 13 – Definitions**
ZA-11-01 Front Yard Setback Planning Commission Public Hearing: 27 July 2010 Planning Commission Referral: 10 August 2010 City Council Public Hearing Warning: 20 October 2010 City Council Public Hearing: 8 November 2010 City Council Adoption: 8 November 2010 **Effective Date: 8 December 2010**	**Article 5 Citywide General Standards** Modify Sec. 5..2.5
ZA-11-02 Emergency Demolition Planning Commission Public Hearing: 27 July 2010 Planning Commission Referral: 10 August 2010 City Council Public Hearing Warning: 20 October 2010 City Council Public Hearing: 8 November 2010 City Council Adoption: 8 November 2010 **Effective Date: 8 December 2010**	**Article 3 Applications, Permits and Project Reviews** Modify Section 3.1.2 (c) 7&8
ZA-11-03 Wetland Conservation Zone Planning Commission Public Hearing: 14 September 2010 Planning Commission Referral: 14 September 2010 City Council Public Hearing Warning: 22 December 2011 City Council Public Hearing: 10 January 2011 City Council Adoption: 10 January 2011 **Effective Date: 09 February 2011**	**Article 4 Maps and Districts** Modify Section 4.5.4 (b) Modify Map 4.5.4-1
ZA-11-04 Mental Health Crisis Center Planning Commission Public Hearing: 14 September 2010 Planning Commission Referral: 14 September 2010 City Council Public Hearing Warning: 22 December 2011 City Council Public Hearing: 10 January 2011 City Council Adoption: 10 January 2011 **Effective Date: 09 February 2011**	**Article 5 Citywide General Standards** Modify Section 5.4.11
ZA-11-05 Tree List Requirement Planning Commission Public Hearing: 14 September 2010 Planning Commission Referral: 14 September 2010 City Council Public Hearing Warning: 22 December 2011 City Council Public Hearing: 10 January 2011 City Council Adoption: 10 January 2011 **Effective Date: 09 February 2011**	**Article 3 Applications, Permits and Project Reviews** Modify Section 3.1.2 (a)

ZA-11-06 E-LM Expansion Planning Commission Public Hearing: 15 February 2011 Planning Commission Referral: 15 February 2011 City Council Public Hearing Warning: 13 March 2011 City Council Public Hearing: 28 March 2011 City Council Adoption: 28 March 2011 **Effective Date: 27 April 2011**	**Article 4 Maps and Districts** Modify Maps 4.3.1-1 Base Zoning Districts, 4.4.3-1 Enterprise Districts, 4.4.5-1 Residential Zoning Districts
ZA-11-07 DMU Residential District Setback Planning Commission Public Hearing: 15 February 2011 Planning Commission Referral: 15 February 2011 City Council Public Hearing Warning: 13 March 2011 City Council Public Hearing: 28 March 2011 City Council Adoption: 28 March 2011 **Effective Date: 27 April 2011**	**Article 4 Maps and Districts** Modify Sec. 4.4.1
ZA-11-08 Highway Sign Exemption Planning Commission Public Hearing: 10 May 2011 Planning Commission Referral: 10 May 2011 City Council Public Hearing Warning: 20 July 2011 City Council Public Hearing: 8 August 2011 City Council Adoption: 8 August 2011 **Effective Date: 7 September 2011**	**Article 8 Parking** Modify Section 7.1.3 – Exemptions
ZA-11-09 Shared Use Parking District Planning Commission Public Hearing: 10 May 2011 Planning Commission Referral: 10 May 2011 City Council Public Hearing Warning: 28 May 2011 City Council Public Hearing: 13 June 2011 City Council Adoption: 13 June 2011 **Effective Date: 20 July 2011**	**Article 8 Parking** Modify Map 8.1.3-1
ZA-12-01 Bed and Breakfast Definition Planning Commission Public Hearing: 9 August 2011 Planning Commission Referral: 9 August 2011 City Council Public Hearing Warning: 28 September 2011 City Council Public Hearing: 17 October 2011 City Council Adoption: 17 October 2011 **Effective Date: 16 November 2011**	**Article 13 Definitions** Modify "Bed and Breakfast" Definition
ZA-12-02 Signs in Enterprise Districts Planning Commission Public Hearing: 9 August 2011 Planning Commission Referral: 9 August 2011 City Council Public Hearing Warning: 28 September 2011 City Council Public Hearing: 17 October 2011 City Council Adoption: 17 October 2011 **Effective Date: 16 November 2011**	**Article 7 Signs** Add Sec. 7.2.5 (e)
ZA-12-03 Adaptive Reused in PUD Planning Commission Public Hearing: 9 August 2011 Planning Commission Referral: 9 August 2011 City Council Public Hearing Warning: 28 September 2011 City Council Public Hearing: 17 October 2011 City Council Adoption: 17 October 2011 **Effective Date: 16 November 2011**	**Article 11 Planned Unit Development** Modify Sec. 11.1.3 (b)

ZA-12-04 Zoning Complainants Planning Commission Public Hearing: 13 December 2011 Planning Commission Referral: 28 February 2012 City Council Public Hearing Warning: 20 May 2012 City Council Public Hearing: 4 June 2012 City Council Adoption: 4 June 2012 **Effective Date: 4 July 2012**	**Article 2 Administrative Mechanisms** Modify Sec. 2.7.5
ZA-12-05 – Major Impact – Neighborhood Meeting Planning Commission Public Hearing: 13 December 2011 Planning Commission Referral: 28 February 2012 City Council Public Hearing Warning: 20 May 2012 City Council Public Hearing: 4 June 2012 City Council Adoption: 4 June 2012 **Effective Date: 4 July 2012**	**Article 3 Applications, Permits and Project Reviews** Modify Sec. 3.2.1, Modify 3.5.2 Modify 3.5.4
ZA-12-06 – NAC Minimum Building Height Planning Commission Public Hearing: 28 February 2012 Planning Commission Referral: 28 February 2012 City Council Public Hearing Warning: 20 May 2012 City Council Public Hearing: 4 June 2012 City Council Adoption: 4 June 2012 **Effective Date: 4 July 2012**	**Article 4 Maps and Districts** Modify Section 4.4.2 (b))
ZA-12-09 – NAC Ground Floor Use Restriction Planning Commission Public Hearing: 27 March 2012 Planning Commission Referral: 27 March 2012 City Council Public Hearing Warning: 20 May 2012 City Council Public Hearing: 4 June 2012 City Council Adoption: 4 June 2012 **Effective Date: 4 July 2012**	**Article 4 Maps and Districts** Modify Sec. 4.4.2 (d)1
ZA-12-08 Electronic Message Signs Planning Commission Public Hearing: 27 March 2012 Planning Commission Referral: 27 March 2012 City Council Public Hearing Warning: September 11, 2012 City Council Public Hearing: October 15, 2012 City Council Adoption: November 26, 2012 **Effective Date: December 26, 2012**	**Article 7 Signs** Modify Sec. 7.1.12
ZA-13-01 Residential Occupancy Limits in the RH District Planning Commission Public Hearing: October 23, 2012 Planning Commission Referral: October 24, 2012 City Council Public Hearing Warning: October 24, 2012 City Council Public Hearing: November 13, 2012 City Council Adoption: November 26, 2012 **Effective Date: December 26, 2012**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5 (d) 5. C.
ZA-13-02 Lot Line Adjustments; Vestigial Alley Planning Commission Public Hearing: December 18, 2012 Planning Commission Referral: February 18, 2013 City Council Public Hearing Warning: May 22, 2013 City Council Public Hearing: June 10, 2013 City Council Adoption: June 10, 2013 **Effective Date: July 10, 2013**	**Article 10 Subdivision Review** Modify Sec. 10.1.5 **Article 13 Definitions** Modify 'Lot Line Adjustment' definition Add 'Vestigial Alley' definition

ZA-13-04 Garage Size and Orientation Planning Commission Public Hearing: February 12, 2013 Planning Commission Referral: February 18, 2013 City Council Public Hearing Warning: May 22, 2013 City Council Public Hearing: June 10, 2013 City Council Adoption: June 10, 2013 **Effective Date: July 10, 2013**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5 (d) 4 **Article 6 Development Review Standards** Modify Sec. 6.2.2 (h)
ZA-13-05 Nonconforming Structures Demolition Planning Commission Public Hearing: March 26, 2013 Planning Commission Referral: April 9, 2013 City Council Public Hearing Warning: June 26, 2013 City Council Public Hearing: July 15, 2013 City Council Adoption: July 15, 2013 **Effective Date: August 14, 2013**	**Article 5 Citywide General Regulations** Modify Sec. 5.3.5 (b)
ZA-13-07 50% Residential Limitation Planning Commission Public Hearing: March 12, 2013 Planning Commission Referral: April 9, 2013 City Council Public Hearing Warning: August 21, 2013 City Council Public Hearing: September 9, 2013 City Council Adoption: September 9, 2013 **Effective Date: October 9, 2013**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.1 (d) 1. B.
ZA-13-08 Residential Side/Rear Yard Setback Encroachments Planning Commission Public Hearing: March 26, 2013 Planning Commission Referral: April 9, 2013 City Council Public Hearing Warning: June 26, 2013 City Council Public Hearing: July 15, 2013 City Council Adoption: July 15, 2013 **Effective Date: August 14, 2013**	**Article 4 Zoning Maps and Districts** Modify Table 4.4.5-3 **Article 5 Citywide General Regulations** Modify Sec. 5.2.5 (a) 2. Modify Sec. 5.2.5 (b) 7. Modify Sec. 5.3.5 (a) 1.
ZA-13-09 Community Center Planning Commission Public Hearing: March 26, 2013 Planning Commission Referral: April 9, 2013 City Council Public Hearing Warning: June 26, 2013 City Council Public Hearing: July 15, 2013 City Council Adoption: July 15, 2013 **Effective Date: August 14, 2013**	**Appendix A – Use Table** Modify Use Table
ZA-13-10 Accessory Dwelling Units Planning Commission Public Hearing: March 26, 2013 Planning Commission Referral: April 9, 2013 City Council Public Hearing Warning: City Council Public Hearing: September 9, 2013 City Council Adoption: September 9, 2013 **Effective Date: October 9, 2013**	**Article 5 Citywide General Regulations** Modify Sec. 5.4.5
ZA-13-11 Adaptive Reuse and Residential Bonuses Planning Commission Public Hearing: May 14, 2013 Planning Commission Referral: July 24, 2013 City Council Public Hearing Warning: October 16, 2013 City Council Public Hearing: November 4, 2013 City Council Adoption: November 4, 2013 **Effective Date: December 4, 2013**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5 (d) 7. C. Modify Sec. 4.4.5 (d) 7. D.

ZA-14-02 RCO-Recreation Greenspace Lot Coverage Planning Commission Public Hearing: October 8, 2013 Planning Commission Referral: October 29, 2014 City Council Public Hearing Warning: February 2, 2014 City Council Public Hearing: February 18, 2014 City Council Adoption: February 18, 2014 **Effective Date: March 19, 2014**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.6(b) and (d)
ZA-14-03 Conditional Uses in Mixed Use Districts Planning Commission Public Hearing: September 10, 2013 Planning Commission Referral: September 13, 2013 City Council Public Hearing Warning: October 16, 2013 City Council Public Hearing: November 4, 2013 City Council Adoption: November 4, 2013 **Effective Date: December 4, 2013**	**Appendix A – Use Table** Modify Use Table
ZA-14-04 Downtown Transition District Expansion Planning Commission Public Hearing: September 10, 2013 Planning Commission Referral: September 13, 2013 City Council Public Hearing Warning: October 16, 2013 City Council Public Hearing: November 4, 2013 City Council Adoption: November 4, 2013 **Effective Date: December 4, 2013**	**Article 4 Zoning Maps and Districts** Modify Map 4.3.1-1 Modify Map 4.4.1-1 Modify Map 4.4.5-1 Modify Figure 4.4.1-3 **Article 8 Parking** Modify Map 8.1.3-1
ZA-14-05 Neighborhood Mixed Use District Expansion Planning Commission Public Hearing: November 26, 2013 Planning Commission Referral: December 20, 2013 City Council Public Hearing Warning: June 11, 2014 City Council Public Hearing: July 14, 2014 City Council Adoption: July 14, 2014 **Effective Date: August 13, 2014**	**Article 4 Zoning Maps and Districts** Modify Map 4.3.1-1 Modify Map 4.4.2-1 Modify Map 4.4.5-1 **Article 8 Parking** Modify Map 8.1.3-1
ZA-14-06 Café Parking In Shared Use Parking Districts Planning Commission Public Hearing: November 26, 2013 Planning Commission Referral: November 26, 2013 City Council Public Hearing Warning: December 18, 2013 City Council Public Hearing: January 6, 2014 City Council Adoption: January 6, 2014 **Effective Date: February 5, 2014**	**Article 8 Parking** Modify Table 8.1.8-1

ZA-14-08 Urban Agriculture Planning Commission Public Hearing: March 11, 2014 Planning Commission Referral: March 11, 2014 City Council Public Hearing Warning: January 7, 2015 City Council Public Hearing: January 26 & February 9, 2015 City Council Adoption: February 9, 2015 **Effective Date: March 18, 2015**	**Article 3 Applications, Permits, and Project Reviews** Modify Sec. 3.1.2 **Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5 **Article 5 Citywide General Regulations** Modify Sec. 5.1.1 Modify Sec. 5.1.2 **Article 13 Definitions** Modify 'Agriculture', 'Animal', 'Community Garden', 'Farming', and 'Open Air Market' definitions Add 'Agricultural Structure', 'Cold Frame', 'Green House', 'Hoop House' and 'Urban Agriculture' definitions **Appendix A – Use Table** Modify Use Table
ZA-14-08 Urban Agriculture City Council Public Hearing Warning: July 22, 2015 City Council Public Hearing: August 10, 2015 City Council Adoption: August 10, 2015 **Effective Date: September 9, 2015**	**Article 5 Citywide General Regulations** Add 'may' to Sec. 5.1.2(f)
ZA-14-09 Lot Coverage Exceptions Planning Commission Public Hearing: March 11, 2014 Planning Commission Referral: April 8, 2014 City Council Public Hearing Warning: June 11, 2014 City Council Public Hearing: July 14, 2014 City Council Adoption: July 14, 2014 **Effective Date: August 13, 2014**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5(d)3. **Article 13 Definitions** Add 'Window Well' definition
ZA-14-10 Existing Lots Required Frontage or Access Planning Commission Public Hearing: March 11, 2014 Planning Commission Referral: March 11, 2014 City Council Public Hearing Warning: July 23, 2014 City Council Public Hearing: August 11, 2014 City Council Adoption: August 11, 2014 **Effective Date: September 17, 2014**	**Article 5 Citywide General Regulations** Modify Sec. 5.2.2 Modify Sec. 5.3.6
ZA-14-11 Animal Boarding in NAC Planning Commission Public Hearing: March 11, 2014 Planning Commission Referral: April 8, 2014 City Council Public Hearing Warning: June 11, 2014 City Council Public Hearing: July 14, 2014 City Council Adoption: July 14, 2014 **Effective Date: August 13, 2014**	**Appendix A – Use Table** Modify Use Table

ZA-15-01 Garage Size and Orientation Planning Commission Public Hearing: January 13, 2015 Planning Commission Referral: January 13, 2015 City Council Public Hearing Warning: March 4, 2015 City Council Public Hearing: March 23, 2015 City Council Adoption: March 23, 2015 **Effective Date: April 29, 2015**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5(d)(4)
ZA-15-02 Conditional Use; Inclusionary and Replacement Housing; Planned Unit Development Planning Commission Public Hearing: January 13 & January 27, 2015 Planning Commission Referral: January 27, 2015 City Council Public Hearing Warning: July 22, 2015 City Council Public Hearing: August 10, 2015 City Council Adoption: August 10, 2015 **Effective Date: September 9, 2015**	**Article 3 Applications, Permits, and Project Reviews** Modify Sec. 3.5.2 Modify Sec. 3.5.3 Modify Sec. 3.5.6 **Article 4 Zoning Maps and Districts** Modify Sec. 4.4.5 **Article 9 Inclusionary and Replacement Housing** Modify Sec. 9.1.5 Modify Sec. 9.1.8 to 9.1.21 Modify Sec. 9.2.3 Modify Sec. 9.2.5 Modify Sec. 9.2.9 Modify Sec. 9.2.10 **Article 11 Planned Development** Modify Sec. 11.1.3 to 11.1.7
ZA-15-04 Downtown, Neighborhood Mixed Use & Enterprise Districts Setbacks Abutting a Residential Zone Planning Commission Public Hearing: March 10, 2015 Planning Commission Referral: March 10, 2015 City Council Public Hearing Warning: July 22, 2015 City Council Public Hearing: August 10, 2015 City Council Adoption: August 10, 2015 **Effective Date: September 9, 2015**	**Article 4 Zoning Maps and Districts** Modify Sec. 4.4.1(d)(6) Modify Table 4.4.1-1 Modify Sec. 4.4.2 Table 4.4.2-1 Modify Sec. 4.4.3 Table 4.4.3-1
ZA-15-05 (A and B) Appendix A – Use Table (Attached Dwellings – Mixed Use and Small Daycares in the RCO) Planning Commission Public Hearing: April 28, 2015 Planning Commission Referral: April 28, 2015 City Council Public Hearing Warning: May 27, 2015 City Council Public Hearing: June 15, 2015 City Council Adoption: June 15, 2015 **Effective Date: July 15, 2015**	**Appendix A – Use Table** Modify Use Table
ZA-15-06 Performing Arts Centers in ELM Zone Planning Commission Public Hearing: July 14, 2015 Planning Commission Referral: July 14, 2015 City Council Public Hearing Warning: July 22, 2015 City Council Public Hearing: August 10, 2015 City Council Adoption: August 10, 2015 **Effective Date: September 9, 2015**	**Appendix A – Use Table** Modify Use Table

ZA-15-07 Community Gardens Impact Fee Incentive and Off-Site Improvements Impact Fee Inclusion Planning Commission Public Hearing: April 28, 2015 Planning Commission Referral: April 28, 2015 City Council Public Hearing Warning: July 22, 2015 City Council Public Hearing: August 10, 2015 City Council Adoption: August 10, 2015 **Effective Date: September 9, 2015**	**Article 3 Applications, Permits, and Project Reviews** Modify Sec. 3.3.3 to 3.3.10
ZA-16-02 Mobile Home Parks Planning Commission Public Hearing: November 24, 2015 Planning Commission Referral: November 24, 2015 City Council Public Hearing Warning: February 17, 2016 City Council Public Hearing: March 7, 2016 City Council Adoption: March 7, 2016 **Effective Date: April 13, 2016**	**Article 5 Citywide General Standards** Modify Sec. 5.4.12 **Article 13 Definitions** Modify Sec. 13.1.2 **Appendix A – Use Table** Modify Use Table
ZA-16-03 Grocery in Enterprise-Light Manufacturing Planning Commission Public Hearing: December 8, 2015 Planning Commission Referral: December 8, 2015 City Council Public Hearing Warning: February 17, 2016 City Council Public Hearing: March 7, 2016 City Council Adoption: March 7, 2016 **Effective Date: April 13, 2016**	**Appendix A – Use Table** Modify Use Table

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ARTICLE 1: GENERAL PROVISIONS

Introduction: This Article of the Burlington Comprehensive Development Ordinance explains the City's authority to enact zoning and other development bylaws, and describes the process by which these regulations are prepared and modified.

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PART 1. GENERAL PROVISIONS

Sec. 1.1.1 Title

This Appendix shall be known, and may be cited, as the *Burlington Comprehensive Development Ordinance and/or the Burlington Zoning and Subdivision Ordinance.*

Sec. 1.1.2 Intent and Purpose

It is the intent and purpose of this ordinance:

(a) to encourage the use and development of lands in Burlington in a manner which will promote the public health, safety and welfare;

(b) to implement the goals of the Burlington Municipal Development Plan;

(c) to protect agricultural, forest and other environmentally significant lands;

(d) to facilitate the growth of Burlington and its neighborhoods so as to create an optimum environment, with good urban and civic design;

(e) to encourage appropriate architectural design and the conservation and protection of historic resources;

(f) to encourage the conservation, utilization and development of renewable energy resources;

(g) to encourage development of a rich cultural environment and to foster the arts.

(h) to encourage the continued economic growth and vitality of the city; and

(i) to create a model city for people to live and work in.

Sec. 1.1.3 Authority

This ordinance is adopted pursuant to the authority contained in the Vermont Municipal and Regional Planning and Development Act, also designated as *Title 24, V.S.A. Chapter 117*. Whenever any provision of this ordinance refers to or cites a section of *Title 24 V.S.A. Chapter 117*, and this section is later amended or superseded, this ordinance shall be deemed to refer to the amended section or the section that most nearly corresponds to the superseded section.

Sec. 1.1.4 Jurisdiction

This ordinance shall be effective for all land within the City of Burlington, VT.

Sec. 1.1.5 Relationship to Existing Regulations

To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the city's zoning and/or subdivision regulations, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the zoning ordinance or other applicable regulations. Likewise, any situation for which a lawful zoning permit was not obtained under the

previously adopted zoning ordinance shall be deemed to be in violation of this ordinance.

Sec. 1.1.6 Relationship to Municipal Development Plan

It is the intention of the city council that this ordinance implements the planning policies adopted for the city as reflected in the Municipal Development Plan as the same may be amended from time to time as well as other planning documents adopted by the city. While the city council reaffirms its commitment that this ordinance and any amendment to it be in conformity with its planning policies, the city council hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Sec. 1.1.7 No Use of Land or Buildings Except in Conformity With Ordinance

Except as otherwise provided in this ordinance, no person may use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under his or her control except in accordance with the applicable provisions of this ordinance. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Sec. 1.1.8 Greater Restrictions

Where this ordinance imposes a greater restriction upon the use, height, setback and the area of structures or the use of premises or the intensity of development than is imposed by other ordinances, the provisions of this ordinance shall control. Where one provision of this ordinance conflicts with another provision within this ordinance, the more restrictive shall apply unless otherwise specified.

Sec. 1.1.9 Severability

It is hereby declared to be the intention of the city council that if any article, part, section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining articles, parts, sections, paragraphs, sentences, clauses, or phrases of this ordinance.

Sec. 1.1.10 Computation of Time

Where an event is required or permitted to occur by this ordinance before, on, or after a specified period of time measured from another event, in calculating the period:

(a) The first day shall not be counted;

(b) The final day shall be counted; and

(c) Weekend days and holidays shall be counted.

Sec. 1.1.11 Warning of Disclaimer of Liability

These regulations shall not create any liability on the part of the city, its officials, agents, employees, or representatives including but not limited to any liability for any damages or other legal remedy or any equitable remedy claimed to have accrued as a result of reliance on this ordinance or any determination/decision lawfully made there under.

Sec. 1.1.12 Effective Date

The provisions in this ordinance were originally adopted on 7 January 2008 and became effective on 30 January 2008.

PART 2: AMENDMENT AND ADOPTION PROCEDURES

Sec. 1.2.1 Purpose

The intent of this Part is to set forth the procedures to be followed when amendments are proposed to the text of this ordinance or to the zoning map.

Sec. 1.2.2 Amendment Preparation

Any amendment to the City of Burlington's zoning ordinance shall be prepared by or at the direction of the planning commission and shall have the purpose of implementing the Municipal Development Plan as the same may be amended from time to time or as otherwise authorized by statute. An amendment of this ordinance may be prepared by the commission, or any other person or body pursuant to Sec. 1.2.3 below.

Sec. 1.2.3 Amendment by Others

Proposed amendments prepared by a person or body other than the planning commission shall be submitted in writing along with any supporting documents to the planning commission. The planning commission may then proceed under this article as if the amendment had been prepared by the commission.

Sec. 1.2.4 Amendment by Petition or Requested by the City Council

If a proposed amendment is requested by the city council and/or is supported by a petition signed by not less than five percent (5%) of Burlington voters, the commission shall correct any technical deficiency and shall, without otherwise substantively changing the meaning or intent of the amendment, promptly proceed in accordance with this article as if it had been prepared by the commission.

Sec. 1.2.5 Planning Commission Report

When considering an amendment to this ordinance, the planning commission shall prepare and approve a written report on the proposal. The report shall provide a brief explanation of the proposed bylaw, amendment, or repeal and shall include a statement of purpose as required for notice under 24 VSA §4444, and shall include findings regarding how the proposal:

(a) Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.

(b) Is compatible with the proposed future land uses and densities of the municipal plan.

(c) Carries out, as applicable, any specific proposals for any planned community facilities.

Sec. 1.2.6 Public Hearing by Planning Commission

The planning commission shall hold at least one public hearing within the municipality after public notice on any amendment proposed by the city council, the planning commission or by petition.

Sec. 1.2.7 Notice to Municipalities and Agencies

At least fifteen (15) days prior to the first public hearing, a copy of the proposed amendment and any written report shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:

(a) The chairs of the planning commissions of Colchester, South Burlington and Winooski;

(b) The executive director of the Chittenden County Regional Planning Commission; and

(c) The Department of Housing and Community Affairs within the Vermont Agency of Development and Community Affairs.

Any of these bodies may submit comments on the proposed bylaw or amendment to the commission, or may be heard in any proceeding with respect to the adoption of the proposed bylaw or amendment.

Sec. 1.2.8 Submission to the City Council

The planning commission may then make revisions before submitting the proposed bylaw or amendment and the written report to the city council. If requested by the city council, or if a proposed amendment is supported by a petition as outlined in Sec 1.2.4 above, the planning commission shall promptly submit the amendment, with changes only to correct technical deficiencies, to the city council, together with any recommendation or opinion it considers appropriate. Simultaneously with the submission, the planning commission shall file with the city clerk a copy of the proposed bylaw or amendment and the written report for public review.

Sec. 1.2.9 Public Hearing Notice Contents

Where a public hearing is called concerning an amendment to this ordinance, the planning commission shall publish and post either the full text of the proposed material or a notice including:

(a) A statement of purpose;

(b) The geographic areas affected;

(c) A table of contents or list of section headings; and

(d) A description of a place within the municipality where the full text may be examined.

No defect in the form or substance of any public hearing notice shall invalidate an amendment to this ordinance. However, the action shall be invalidated if the notice is materially misleading in content or fails to include one of the elements required by this section or if the defect was the result of a deliberate or intentional act.

Sec. 1.2.10 Public Hearing by City Council

Not less than fifteen (15) nor more than one hundred twenty (120) days after a proposed amendment or bylaw is submitted to the city council, the city council shall hold the first of one or more public hearings, after public notice, on the proposed amendment or bylaw and shall make copies of the proposal and any written report of the planning commission available to the public upon request. Failure to hold the public hearing within one hundred twenty (120) days shall not invalidate the adoption of the bylaw or amendment or the validity of any repeal.

Sec. 1.2.11 Changes by City Council

The city council may change the proposed amendment, but shall not do so less than fourteen (14) days prior to the final public hearing. If the city council at any time makes substantial changes in the concept, meaning, or extent of the proposed amendment, it shall warn a new public hearing or hearings under Sec. 1.2.10. If any part of the proposal is changed, the city council, at least ten (10) days prior to the hearing, shall file a copy of the changed proposal with the city clerk and with the

planning commission. The planning commission shall amend the report pursuant to Sec. 1.2.5 to reflect the changes made by the city council and shall submit that amended report at or prior to the public hearing.

Sec. 1.2.12 Routine Adoption

Except as provided in Sec. 1.2.13 and 1.2.14 below, an amendment shall be adopted by a majority of the members of the city council at a meeting that is held after the final public hearing, and shall be effective twenty-one (21) days after the same has been approved by the Mayor or adopted notwithstanding the Mayor's veto and published in a newspaper of general circulation within the City.

Sec. 1.2.13 Popular Vote

Notwithstanding Sec. 1.2.12 above, a vote by the city council on an amendment or bylaw shall not take effect if five percent (5%) of Burlington voters petition for a meeting of the municipality to consider the bylaw or amendment, and the petition is filed within twenty (20) days of the vote. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw or amendment by australian ballot.

Sec. 1.2.14 Time Limit for Adoption

If the proposed amendment or bylaw is not approved or rejected within one year of the date of the final public hearing of the planning commission, it shall be considered disapproved unless five percent (5%) of Burlington voters petition for a meeting of the municipality to consider the amendment or bylaw, and the petition is filed within sixty (60) days of the end of that year. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw or amendment by Australian ballot.

Sec. 1.2.15 Repeal

Repeal of this ordinance or any of its provisions shall follow the same procedures as an amendment to this ordinance.

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ARTICLE 2: ADMINISTRATIVE MECHANISMS

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes the appointment, authority, and administrative procedures for the various review boards and the administrative officer.

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PART 1: GENERAL ADMINISTRATIVE PROVISIONS

Sec. 2.1.1 Intent.

The administrative provisions delineated herein are intended to set forth rules and procedures pertaining to the following: planning commission, development review board, administrative officer, design advisory board, conservation board**,** and technical review committee. Each listed commission and board may adopt and enforce supplemental rules and procedures which are consistent with the terms of this article.

Sec. 2.1.2 Notice of Meetings/Minutes.

Meetings shall be noticed and minutes thereof shall be prepared and kept in accordance with the specifications of the then current version of Vermont's Open Meeting Law. The minutes shall be made available for public inspection during normal business hours at the department of planning and zoning. Any person shall have the right to a reproduction of the minutes, either in draft form or in final form. Draft minutes shall not be considered official until formally approved. Such person may be charged a reasonable fee for the reproduction of the minutes in an amount sufficient to cover the cost of reproduction.

Sec. 2.1.3 Quorum.

A quorum shall consist of a majority of the commission or board membership, excluding vacant seats.

Sec. 2.1.4 Executive Sessions.

Executive Sessions shall be governed by the provisions of said Open Meeting Law.

Sec. 2.1.5 Conflicts.

In order to secure, protect, and preserve the highest level of public trust in the deliberations and decisions of boards and commissions, it is incumbent upon each member not only to scrupulously avoid any act which constitutes a conflict of interest established in law but also to avoid any act which gives the appearance of a conflict of interest. The provisions of Section 133 of the city charter as the same may be amended from time to time shall be fully applicable. In the event of any conflict between the requirements of Section 133 of the city charter and the provisions hereof, Section 133 shall be controlling. Additionally, a member shall withdraw from all participation, including all formal and informal discussion and voting, in any deliberation of a board or commission, or any of its committees, or from any issue upon declaration of a conflict of interest, or upon the determination by a majority of the body excluding the member in question that there is a reasonable public perception that a conflict of interest exists, and also if:

(a) the matter involves the member's own official conduct;

(b) participation in the matter would violate of a member's code of professional responsibility; or

(c) the member has such close personal ties to the applicant or other participant in the proceedings that the member cannot reasonably be expected to exercise sound judgment in the public interest.

Sec. 2.1.6 Ex Parte Communication:

When operating in a quasi-judicial capacity, no member shall communicate, directly or indirectly with any applicant, except in the presence of staff or at board or commission meetings, which have been properly noticed.

PART 2: PLANNING COMMISSION

Sec. 2.2.1 Authority.

There shall be a planning commission (or commission) created pursuant to the city charter and 24 V.S.A. Section 4321.

Sec. 2.2.2 Composition and Terms.

The planning commission shall consist of seven (7) members who shall be residents of the city. Planning commission members shall be appointed for four (4) year

staggered terms by the city council with mayor presiding. Any member may be removed by the city council with mayor presiding pursuant to city charter Section 129 as the same may be amended from time to time. Vacancies in these offices may be filled for the unexpired terms only by the city council with mayor presiding or otherwise pursuant to law.

Sec. 2.2.3 Voting.

Any action of the planning commission shall be taken by a majority of the commission members. All votes of the commission shall be recorded in the minutes of the meeting, indicating the vote of each member if a roll call is requested by a member. Abstentions shall not be permitted in a roll call vote unless a conflict of interest in present.

Sec. 2.2.4 Organization.

At its first meeting in July of each year, the commission shall, by majority vote of its members (excluding vacant seats,) elect one of its members to serve as chairperson and one member to serve as vice-chairperson. The commission shall also select a clerk who shall be either a commission member or city employee.

Sec. 2.2.5 Powers and Duties.

The planning commission shall exercise all duties specified in 24 VSA Ch.117, as well as any duties specified in the city charter or appropriately requested of it by the mayor or city council.

PART 3: ADMINISTRATIVE OFFICER

Sec. 2.3.1 Authority

This part is enacted under the provisions of 24 V.S.A. Section 4448.

Sec. 2.3.2 Appointment

The director of planning and zoning shall serve, ex officio, as the city's zoning administrative officer (ZAO or administrative officer). A chief assistant administrative officer shall be appointed annually by the city council upon the recommendation of the ZAO and the planning commission. Additional assistant administrative officers may also be appointed by the city council upon the

recommendation of the ZAO and planning commission. Any and all references in this ordinance to the ZAO or administrative officer shall mean to include the chief assistant administrative officer and any other assistant administrative officers assigned to a matter by the administrative officer unless otherwise specified in this ordinance.

Sec. 2.3.3 Powers and Duties

The administrative officer shall administer the provisions of this ordinance and any amendments thereto and other applicable bylaws literally, and shall have no power to permit any land development that is not in conformance with this ordinance.

(a) Referrals.

The administrative officer may refer questions of interpretation to the DRB if it is determined that the answer to the question has a bearing upon the jurisdiction of the DRB. Any such referral shall be considered an appeal of a decision of the administrative officer.

(b) Zoning Enforcement.

The administrative officer shall have ultimate responsibility for all matters relating to the enforcement of the zoning ordinance pursuant to Part 7 of this article. While protocols may be adopted by which the city's code enforcement office assists in zoning enforcement, the administrative officer shall retain the exclusive jurisdiction to make administrative interpretations (subject to appeal) concerning the terms of such ordinance.

(c) Assistant Administrative Officers

The chief assistant administrative officer and other assistant administrative officers shall have such authority and duties as shall be delegated to them by the ZAO.

Sec. 2.3.4 Issuance of Zoning Permits

The administrative officer shall be authorized to issue zoning permits, including certificates of appropriateness, in accordance with the provisions of this ordinance. If the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.

Sec. 2.3.5 Appeal of Administrative Decisions/Determinations

Any decision or act taken by the administrative officer made under this Article may be appealed to the development review board as specified under the requirements of Article 12.

Sec. 2.3.6 Issuance of Certificates of Occupancy

Only the administrative officer shall be authorized to issue certificates of occupancy in accordance with the provisions of this ordinance.

PART 4: DEVELOPMENT REVIEW BOARD

Sec. 2.4.1 Authority

There shall be a Development Review Board (DRB or board) created pursuant to *24 V.S.A. Section 4460*.

Sec. 2.4.2 Composition and Terms

The DRB shall consist of seven (7) members and two (2) alternates who shall be residents of the city. To the extent possible, members appointed to the board are encouraged to be professionals from any of the following or related fields: architecture, architectural history, landscape architecture, engineering, law, planning, contracting, archaeology, or real estate development.

DRB members and alternate members shall be appointed by the city council with mayor presiding to three (3) year staggered terms. Alternates may be assigned to serve in situations when one or more members of the board are disqualified or are otherwise unable to serve. Vacancies shall be filled by the city council for the unexpired terms and upon the expiration of such terms. All members shall continue to serve until a successor is appointed and qualified.

Any member may be removed for cause by the city council with mayor presiding upon written charges and after a public hearing pursuant to city charter Section 129 as the same may be amended from time to time.

Sec. 2.4.3 Rules of Procedure

The DRB shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the 24 VSA §4461(a), and shall conduct its proceedings in accordance with Vermont's Open Meeting Law.

Sec. 2.4.4 Powers and Duties

The DRB shall have all of the powers and duties as set forth in 24 V.S.A. §4460 to administer the provisions of these regulations, in addition to those specifically

provided elsewhere in this ordinance. Such powers of review as described in 24 VSA Chapter 117 include:

(a) Review of right-of-way or easement for land development without frontage;

(b) Review of land development or use within an historic district or with respect to historic landmarks;

(c) Review of land development or use within a design control district;

(d) Review of conditional use applications;

(e) Review of planned unit development applications;

(f) Review of requests for waivers;

(g) Site plan review;

(h) Review of proposed subdivisions;

(i) Review of wireless telecommunications facilities;

(j) Appeals from the decision of the administrative officer;

(k) Review of requests for variances;

(l) Review of referrals from the ZAO; and

(m) Any other reviews required or authorized by this ordinance.

Sec. 2.4.5 Use of Alternate Members

Where a board member is unable to hear a particular matter, an alternate will be designated by the Chair to participate in that particular matter. Alternates may also be requested by the Chair to sit for a member if the member is not able to attend meetings on a long term basis (i.e. sabbatical, long term illness, etc.).

Sec. 2.4.6 Transitional Provision

The DRB became effective on October 1, 2000. Any reference in any past or present permit to the "Zoning Board of Adjustment" or to the "Planning Commission" shall be considered a reference to the board, and any and all matters which, prior to such date, would have been considered by the Zoning Board of Adjustment or the Planning Commission (regarding project review and/or permits) shall be considered to be under the exclusive jurisdiction of the DRB.

Sec. 2.4.7 Evidence and Testimony

The DRB, in connection with any of its proceedings, may examine, or cause to be examined, any property, maps, books or records bearing upon the matters concerned in such proceeding, may require the attendance of any person having knowledge of

the premises, may take testimony and require proof material for its information, and may administer oaths or take acknowledgement in respect of such matters.

Sec. 2.4.8 Decisions

(a) The DRB may recess its proceedings on any application, pending submission of additional information. It shall close the evidence promptly after all parties have submitted the requested information. It shall adjourn the hearing and issue a decision within 45 days after the adjournment of the hearing. Decisions shall be issued in writing and shall include a statement of the factual bases on which it has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.

(b) In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the 24 VSA Ch. 117, this ordinance and the municipal development plan then in effect.

(c) Within the period set forth in subdivision (a) of this subsection, any decision shall be sent by certified mail to the applicant and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the administrative officer and the city clerk as a part of the public records of the city.

Sec. 2.4.9 Failure to Reach Decision

If the DRB does not render its decision within the period prescribed by Sec. 2.4.8, the board shall be deemed to have rendered a decision in favor of the applicant or appellant, and granted the relief requested as of the first day following such period.

PART 5: ADVISORY COMMITTEES

Sec. 2.5.1 Design Advisory Board

(a) Composition and Terms

There shall be a Design Advisory Board (or DAB) consisting of five (5) members and two (2) alternates appointed to staggered three (3) year terms by the city council with mayor presiding. A majority of the members shall be professionals from any of the following fields: architecture, landscape architecture, engineering, planning, contracting, archaeology, or real estate development. To the extent possible, at least two (2) of the members shall be professionals from the disciplines of history, architectural history, architecture or historical architecture. Any appointment to fill a vacancy shall be for the unexpired term. Any member may be removed at any time for just cause by vote of the city council with mayor presiding, for reasons given to the member in writing, and after a public hearing on the issue if the member so requests.

(b) Powers and Duties

In addition to other responsibilities which may by assigned by the city council, the design advisory board shall, upon request of the board or the administrative officer, review requests for certificates of appropriateness in accordance with the design review standards specified in Article 6, and prepare written advice and recommendations to the board. Such projects may include but not be limited to:

1. Applications involving site plan and design review subject to review and approval by the Board; and,
2. Applications involving historic buildings or sites; and,
3. Applications reviewed under the Major Impact (Sec. 3.5.2(b)), Planned Development (Art. 11), and Subdivision (Art. 10) provisions of these regulations.

Sec. 2.5.2 Conservation Board

(a) Composition and Terms

There shall be a conservation board (CB) composed of at least six (6), but not more than nine (9) members, appointed to four (4) year terms by the city council with mayor presiding. All members shall have a demonstrated commitment to environmental conservation. Individuals with training and experience in the following areas will be represented on the conservation board, if at all possible: environmental law, environmental science, civil engineering, and natural resource planning. Any appointment to fill a vacancy shall be for the unexpired term. Any member may be removed at any time for just cause by vote of the city council with mayor presiding, for reasons given to the member in writing, and after a public hearing on the issue if the member so requests.

(b) Powers and Duties

1. In addition to other responsibilities which may by assigned by the city council, the conservation board shall, upon request of the Board or the administrative officer, participate in the review of those projects which, due to

their size or nature of location potentially affect the environmental quality of the city, and prepare written advice and recommendations to the DRB. Such projects may include but not be limited to:

A. All projects reviewed under the Major Impact (Sec. 3.5.2(b)), Planned Development (Art. 11), and Subdivision (Art. 10) provisions of these regulations;

B. All projects proposed within the Natural Resource Protection Overlay District; and,

C. All projects on or within 100 feet of those areas that constitute a unique ecosystem as defined by the Vermont Natural Heritage Program.

2. The Conservation Board shall participate in review of all projects proposed within the Urban Reserve District in addition to its other duties.

Sec. 2.5.3 Technical Review Committee.

(a) Composition

The city's Technical Review Committee (or committee), as established by resolution of the city council on April 21, 1986 shall be composed of those department heads, or their designees, whose departments are or will be significantly affected by major development projects. The administrative officer shall serve as chair of the committee.

(b) Powers and Duties.

The Technical Review Committee may review all Major Impact (Art. 3, Part 5), Subdivision (Art 10) and/or Planned Development (Art. 11) projects at the discretion of the administrative officer either prior to or as soon as practicable following a formal submission of an application. Members of the committee shall provide written comments following such review and indicate for the applicant any and all pertinent regulations and identifiable impacts of the proposed development project. In assessing such impacts, the committee shall consider the cumulative impact of developments on city services and infrastructure within the proceeding twelve (12) month period. The comments of the committee are intended to provide general direction to the applicant and are not deemed binding on either the members of the committee or upon the applicant unless such comments are incorporated into a final decision of the DRB.

PART 6: PUBLIC HEARING AND PUBLIC NOTICE PROCEDURES

Sec. 2.6.1 Intent

The intent of these regulations is to set forth procedures for the notice and conduct of public hearings held to implement the provisions of this ordinance.

Sec. 2.6.2 Public Hearing and Notice

The DRB shall hold a warned public hearing as part of its consideration for all matters involving conditional use review, variances, administrative officer referrals and appeals, final plat review for subdivisions and any other matter as required by this ordinance.

(a) Public Hearing Notice:

A public notice for a warned public hearing shall be given not less than fifteen (15) days prior to the date of the DRB public hearing by means of all of the following:

1. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the City of Burlington.
2. Posting of the same information in three or more public places within the City, including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.
3. Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal.

(b) Public Notice other than for Public Hearings:

Public notice for DRB proceedings regarding all other types of development review not otherwise requiring a public hearing, shall be given not less than seven (7) days prior to the date of the meeting, and shall include, at a minimum, all of the following:

1. Posting of the date, place, and purpose of the meeting in three or more public places within the City of Burlington.
2. Written notification to the applicant and to the owners of all properties adjoining the property subject to development, without regard to right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where

additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Sec. 2.6.3 Defect in Notice

No defect in the form or substance of any requirements in Section 2.6.2 above shall invalidate the action taken of the appropriate municipal panel, where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental court, or by the DRB itself, the action shall be remanded to the DRB to provide new posting and notice, hold a new hearing, and take a new action.

Sec. 2.6.6 Open Hearing

All hearings under this Article shall be open to the public except for executive or closed deliberative sessions called in accordance with Vermont's Open Meeting Law. No votes or other actions may be taken while in executive or closed deliberative session.

Sec. 2.6.7 Rules of Evidence

The rules of evidence at public hearings under this article shall be the same rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. Section 810. The DRB may examine or cause to be examined any property or information bearing upon the matter(s) concerned in the hearing, require the attendance of persons having knowledge of the premises, take testimony, and administer oaths as further set forth in the Board's Rules of Procedure created pursuant to Sec 2.4.3.

PART 7. ENFORCEMENT

Sec. 2.7.1 Purpose

The purpose of this article is to set forth efficient and effective procedures for enforcement of the provisions of this ordinance.

Sec. 2.7.2 Definitions.

"Waiver Fee" shall refer to the payment that is made for a person to "waive" or relinquish a specific right (e.g. the right to a hearing) with respect to an action of the

court. For purposes of this ordinance, when a party is issued a municipal complaint ticket with a penalty fee and also a waiver fee, that party may consent to no hearing and instead pay only the designated "waiver" fee and send the payment with the ticket form in accordance with the procedures of the Judicial Bureau.

Sec. 2.7.3 Enforcement Officer: Administrative Officer and Designees

Pursuant to the provisions of Sec. 2.3.3, the administrative officer shall have ultimate responsibility for all matters relating to the enforcement of this ordinance. The administrative officer may request other city officials to assist with the enforcement of this ordinance, including planning and zoning staff, staff of the code enforcement office, building inspectors, fire marshal, police officers, staff of the city attorney's, and/or city constable.

Sec. 2.7.4 Entrance Upon Premises

The administrative officer, as representative of the DRB, may enter upon any land in the city to make examinations and surveys pursuant to 24 V.S.A. Section 4325(9). When entrance upon property is refused or denied, the administrative officer may seek a warrant for the purposes of conducting an examination of the premises. A warrant shall only be requested on the basis of administrative officer observations, when another city official has provided credible information to the administrative officer or upon notification by verified written complaint that a zoning violation allegedly exists.

Sec. 2.7.5 Observation or Complaints of Violations

Upon receipt of a written, signed complaint alleging a violation of this ordinance, the administrative officer shall investigate the complaint, take whatever action is warranted, and, if requested, inform the complainant in writing of actions that have been taken.

The observation of a violation on the part of the administrative officer shall be considered an Investigation, and the alleged violator may be issued a notice of zoning violation or a municipal civil complaint ticket.

Sec. 2.7.6 Persons Liable

The owner, tenant, or occupant of any structure or land or part thereof who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance, and any architect, builder, contractor, agent, or other person who knowingly participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance, may be held

responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Sec. 2.7.7 Civil Offense, Penalties

A violation of this ordinance shall constitute a civil offense. Once a violation has been determined by the administrative officer, each day that a violation is continued shall constitute a separate offense. If an alleged violation is determined to exist, a formal notification shall be issued in the form of an enforcement action as described below.

(a) Municipal Civil Complaint Ticket:

The administrative officer may issue a municipal complaint ticket for zoning violations with two copies of said ticket to be served either in person or by first class mail to the defendant (one copy shall be retained by the issuing officer and the original shall be filed with the Judicial Bureau). The issuing officer shall follow the procedure set forth by the Judicial Bureau for municipal complaint tickets.

The first offense ticketed for a violation shall be punishable by a fine of one hundred dollars ($100.00), the waiver fee shall be one hundred dollars ($100.00); a second offense ticketed for the same violation shall be punishable by a fine of one hundred and fifty dollars ($150.00), the waiver fee shall be one hundred and fifty dollars ($150.00); a third offense ticketed for the same violation shall be punishable by a fine of two hundred and fifty dollars ($250.00), the waiver fee shall be two hundred and fifty dollars ($250.00). Upon the fourth offense, the city may request that the case be transferred from the Judicial Bureau to the Environmental Court, or any other court of competent jurisdiction.

(b) Enforcement Action:

An enforcement action may be brought for any violation of this ordinance. Pursuant to an enforcement action, any person who violates this ordinance shall be fined not more than the maximum amount authorized by statute for each offense. No action may be brought under this subsection unless the alleged offender has had at least seven (7) days' warning notice by certified mail. An action may be brought without the seven (7) day notice and opportunity to cure if the alleged offender repeats the violation of the by-law or ordinance after the seven (7) day notice period and within the next succeeding twelve (12) months. The seven (7) day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation, shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of by-laws shall be paid over to the City.

Sec. 2.7.8 Processing Fee

If any enforcement action results in the need for a zoning permit for the subject property, the application fee(s) for processing such permit shall be twice the regular application fee charged if the application is made within 7 days of receipt of the violation notice, or triple the regular application fee if the application is made between 7 to 15 days after receipt of the violation notice, or triple the regular application fee plus $75/hour staff time up to $500 worth of staff time if the application is made after 15 days of receipt of the violation notice in order to recoup a portion of the administrative costs associated with the enforcement action. These fees shall be separate from any penalties that may be assessed hereunder

Sec. 2.7.9 Remedies

If any street, building, structure, or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this ordinance, or in violation of one or more conditions of a permit issued under this ordinance, the administrative officer shall institute in the name of the city any appropriate action (see Sec. 2.7.10 below), injunction or other proceeding to prevent, restrain, correct or abate such construction or use, and to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

Sec. 2.7.10 Appropriate Action

The administrative officer shall take the appropriate action, in an effort to remedy a violation(s) of a zoning permit. Such actions may include, but are not limited to any combination of the following:

(a) A new zoning permit;

(b) Referral to the DRB for review;

(c) Immediate removal of the structure;

(d) A denial of a zoning Certificate of Occupancy; and,

(e) Fines, as allowed under law, until the violation is rectified.

Sec. 2.7.11 Administrative Appeal

A decision by the administrative officer pertaining to an alleged zoning violation may be appealed to the DRB in accordance with the provisions of Article 12, provided that such appeal is filed within fifteen (15) days of the administrative officer's written decision.

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ARTICLE 3: APPLICATIONS, PERMITS, AND PROJECT REVIEWS

Introduction: This Article of the Burlington Comprehensive Development Ordinance specifies when a zoning permit is required; the process and requirements for preparing an application; and the various review and approval processes that may be necessary to receive a permit.

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PART 1. GENERAL PROVISIONS AND ZONING PERMITS

Sec. 3.1.1 Purpose

These regulations are enacted to set forth the provisions for the processing and review of all applications for a zoning permit for all development within Burlington.

Sec. 3.1.2 Zoning Permit Required

Except for that development which is exempt from a permit requirement under Sec. 3.1.2(c) below, no development may be commenced within the city without a zoning permit issued by the administrative officer including but not limited to the following types of exterior and interior work:

> ***From Article 13*** *– Definitions:*
>
> ***Development****: Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; including but not limited to the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any human activity that alters a shore, beach, river, stream, lake, pond, canal, marsh, woodlands, wetland, rare or endangered species habitat, aquifer or other resource area, including shoreland construction or other activity.*

(a) Exterior Work:

1. Additions to existing buildings, garages, accessory buildings, or other structures.
2. Alterations to building elevations/appearances including, but not limited to, re-siding or window replacement (or addition) or other changes that alter trim details or otherwise change the exterior appearance.
3. Change of use or expansion of use.
4. Demolition.
5. Alterations, changes, or modifications to building lots or sites related to site improvements including, but not limited to, increased lot coverage.
6. Excavation or fill related to site improvements.
7. Fences, retaining walls.
8. Land clearing and development
9. Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period. Such land

development shall require the advance approval of the DRB under the criteria set forth in Article 6, Part 2 hereof before a zoning permit may be issued.

10. Exterior lighting.
11. New buildings, garages, sheds, accessory buildings, and other structures.
12. New or expanded parking areas, driveways, and walkways. Including paving existing gravel surfaces.
13. Porches, patios, and decks.
14. Satellite dish antennae over 12 inches in diameter, wireless telecommunications facilities, or other antennae.
15. Signs.
16. Site improvements.
17. Placement of exterior utility meters and dumpsters.
18. Swimming pools (installation and removal).
19. Subdivision of land or any boundary or lot line adjustment between two or more lots.
20. Permanent handicapped ramps (for temporary ramps installed for fewer than 90 days, see Non-Applicability, All Districts).

(b) Interior work:

1. Increase in habitable living space (including, but not limited to, attic, bedroom, basement, garage, and winterizing or otherwise enclosing a porch).
2. Installation of additional kitchen.
3. Change in use.
4. Home occupations.
5. Increase or decrease in the number of units.

(c) Exemptions:

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1. Exterior modifications to a single family dwelling in a non-design review portion of the RL zoning district lawfully in existence prior to the adoption of this ordinance on a conforming lot, and not on or eligible for listing on the State or National Register of Historic Places. Such an exemption shall not be applicable to any of the following changes, which do require a zoning permit:
   A. Increased lot coverage;
   B. Increased habitable living space;
   C. Changes in setbacks or building footprints; and
   D. Construction of additional stories to an existing structure.
   E. Improvements in a Special Flood Hazard Area.

2. The removal of trees from any lot containing a single family home or duplex which consists of no more than three-quarters (3/4) of one acre.
3. Individual tree removal projects that are included under an approved and valid "tree maintenance plan".
4. The maintenance or repair of any exterior architectural feature, or its replacement in-kind, which does not involve a change in the location, design, material, or the outward appearance of the feature;
5. Temporary ramps to serve the handicapped or disabled, for a period of not more than 90 days.
6. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. §248.
7. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810. Prior to the construction of farm structures the farmer must notify the Administrative Officer in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.
8. The temporary stabilization and securing of any structure, site, or building feature required to address an unsafe or dangerous condition which poses an imminent threat to public safety pursuant to a written order of the same issued under the authority of the city building inspector.
9. Where temporary stabilization is not reasonably available the emergency demolition of any structure, site, or building feature required to address an unsafe or dangerous condition which poses an imminent threat to public safety pursuant to a order of the same issued under the written authority of the city building inspector and with the written concurrence of the city engineer. This exemption does not extend beyond the required demolition, clearing of debris, securing or filling cellar holes, and related erosion control and stormwater management.
10. All structures of 24 square feet or less and no taller than 15 feet, as long as they are located in compliance with applicable setbacks. This exemption is limited to 1 such structure, or multiple structures in aggregate up to 24 square feet, per property. This exemption does not apply to properties located within the Special Flood Hazard Area.
11. Children's play structures.
12. Urban agricultural exemptions:
    A. Cold frames of 6 feet in height or less. This exemption does not apply to properties located within the Special Flood Hazard Area.
    B. Up to 2 seasonal hoop houses, each 200 square feet or less, without foundations and as long as they are located in compliance with applicable setbacks. This exemption applies only to seasonal hoop houses that are sheathed in translucent plastic or similar material for a maximum of 9 months per year and are

maintained in an intact condition. The frame may remain in place year-round. This exemption does not apply to properties located in the Special Flood Hazard Area.

C. Urban agricultural uses or structures located on building rooftops.

D. Sale of food produced onsite or at an individual's community garden plot not to exceed $1,000 per year. Food may be processed within the individual's residential kitchen.

(d) Determination of Non-Applicability:

A determination of non-applicability may be made by the administrative officer and a written decision issued outlining the request of the applicant and that a zoning permit is not required. Photographs of the property shall be required to document the existing condition. The determination may be made and a decision may be issued the same-day, but shall be subject to the appeal period for administrative determinations as outlined in Sec. 3.2.9 and Article 12.

PART 2: APPLICATIONS AND PERMITS

Sec. 3.2.1 Pre-Application Conferences

Applicants for all types of development are encouraged to discuss their proposals with the administrative officer prior to the submission of an application in order to provide the applicant with constructive suggestions prior to the submission, and to generally determine the information and review process that will be required for the issuance of a permit.

(a) Administrative Conference:

An Administrative Pre-Application Conference shall be required for all projects that will require review under the Major Impact (Art 3, Part 5) and/or Planned Development (Art. 11) provisions of this ordinance. This requirement may be waived by the administrative officer if the determination is that the project's potential impact is insignificant. For all other applications, an Administrative Pre-Application Conference may be scheduled at the request of the applicant.

(b) Technical Review Committee:

At the discretion of the administrative officer, a pre-application review may be scheduled before the city's technical review committee for any projects that will require review under the Major Impact (Art 3, Part 5), Subdivision (Art 10) and/or Planned Development (Art. 11) provisions of this ordinance, or for any project that, in the opinion of the administrative officer due to its size and/or complexity, would benefit from an informal review by a cross-section of city departments.

(c) Sketch Plan Review:

Upon request of the applicant, or as may be required under Art. 10 - Subdivision or Art. 11 - Planned Development of this ordinance, a Sketch Plan Review may be scheduled before the DRB prior to the submission of an application in order to provide the applicant with constructive suggestions regarding a conceptual development proposal. In order to accomplish these objectives, the applicant shall provide the following:

1. A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and anticipated changes in the existing topography and natural features.
2. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.
3. A topographic or contour map of adequate scale and detail to show site topography and the relationship to adjoining properties.
4. Payment of the applicable Sketch Plan Review fee.

(d) Pre-Application Neighborhood Meeting:

A Pre-Application Public Neighborhood Meeting shall be required for all projects requiring review under Major Impact (Sec. 3.5.2 (b)) in order to allow neighbors to become aware of potential development projects at an early stage of a development's conceptual design and for applicants to take into consideration neighborhood comments and concerns. Procedures and requirements regarding matters including but not limited to scheduling, location, public notice, and documentation shall be set forth by the department of planning and zoning.

Sec. 3.2.2 Application Types and Submission Requirements

Depending on the scale, complexity, and location of the zoning request, and the applicable review process, different types of applications are necessary with respect to the implementation of this ordinance.

(a) Basic Zoning Applications:

A Basic Zoning application is necessary for those requests pertaining to single-family dwellings on conforming lots located in a non-design review portion of a RL zoning district as defined in Sec.4.4.5.

Submission requirements for all Basic Zoning Applications shall include the following:

1. A completed application form signed by the property owner along with the applicable fee;
2. Photographs of the subject property;
3. A site plan which shall include the following as applicable:
   - A. Identifying information including the record owner of land, north arrow, date (including any revision dates) and scale (recommended at not smaller than 1 inch equals 40 feet);
   - B. Property lines and abutting streets;

C. Rights of way or easements affecting the property;

D. Existing and proposed lot coverage (in square feet) of all structures and hard surfaces;

E. Existing and proposed setbacks to property lines and/or public rights-of-way;

F. Existing and proposed contours at no more than 5-foot intervals;

G. Existing natural features of the site including water courses and applicable buffers, wetlands and applicable buffers, floodplains, trees and other vegetation, etc;

H. Location of existing and proposed utilities and facilities (water, sewer, electric, telephone, fire hydrant);

I. Building height and how measured (refer to Sec. 5.2.7);

J. Indicate that parking complies with the standards in Article 8, and the type of barriers used to define parking areas (railroad ties, curbs, etc.); and,

K. Applicable zoning overlay districts as defined in Article 4, Part 5.

The issuance of a zoning permit pursuant to Sec. 3.2.9 for a Basic Zoning application requires administrative review and approval pursuant to Sec. 3.2.7 based on conformance with the applicable district use and dimensional standards found in Art. 4 and parking requirements found in Art. 8.

Depending on the nature, location, type, use, and/or size of the proposed development, the review and approval may also be subject to additional review and submission requirements pursuant to Articles 3, 4, and 5.

(b) Awning and Fence Applications:

Separate applications are necessary for those requests pertaining to awnings that do not include a sign, and fences. Application requirements and regulations pertaining to awnings involving a sign can be found in Article 7 – Signs.

1. Awnings: Submission requirements for awning applications shall include the following as applicable:

A. A completed application form signed by the property owner along with the applicable fee;

B. A sketch of the proposed awning(s) indicating dimensions, material, color, lettering, etc;

C. Length and height of any lettering and related symbols placed on the awning and used to identify the physical address of the building. Any other lettering and logos would constitute a sign subject to the provisions of Article 7 – Signs;

D. A sketch or photo showing placement of awning(s) on the building, and indicating the dimensions and overall height of the awning(s) above any pedestrian walkway (See Sec 6.3.2(a)(3).);

E. Dimensions, locations, and photographs of all existing awnings that will remain;

F. Method of illumination (include specifications and placement of lighting devices) (See applicable lighting regulations in Sec. 5.5.2); and,

G. Material swatch or sample.

2. Fences: Submission requirements for all fence applications shall include:

A. A completed application form signed by the property owner along with the applicable fee;

B. A Site plan including the following as applicable:

(i) Identifying information including the record owner of land, north arrow, date (including any revision dates) and scale (recommended at not smaller than 1 inch equals 40 feet);

(ii) Lot dimensions and location of property lines and abutting streets;

(iii) Location and ownership of rights-of-way or easements affecting the property;

(iv) Required setbacks from property lines and/or public rights-of-way;

(v) Grading changes with minimum 5 ft. contours;

(vi) Location of the proposed fence (See Sec 6.2.2(m).); and,

(vii) Style, materials, and dimensions of the proposed fence.

The issuance of a zoning permit pursuant to Sec 3.2.9 for applications for awnings and fences require administrative review and approval pursuant to Sec. 3.2.7, and are subject to all regulations pursuant to Art. 4 and Art. 6 as applicable.

(c) Certificate of Appropriateness (COA) Level I Application:

A COA Level I Application is necessary for those projects subject to Design Review pursuant to Sec. 3.4.2 and with an estimated construction cost of less than twenty-one thousand dollars ($21,000), or for those projects which otherwise do not qualify under a Basic Zoning Application.

> ***Note**: The $21,000 threshold is in 2008 dollars and is annually adjusted based on the Consumer Price Index pursuant to Sec. 3.2.4(a). See the most current version of the application fee schedule available from the Dept. of Planning & Zoning.*

Submission requirements for a COA Level I Application shall include the following as applicable:

1. All items required for a Basic Application as noted in Sec. 3.2.2(a) above;
2. Site plan, drawn to a scale of 1" = 8, 10, 16, 20, 40 or 60 ft., of the subject property accurately indicating the location and dimensions of all existing structures, walkways, driveways, and other significant features; and all proposed changes with all dimensions; distances from the front, side and rear property lines to each proposed new structure and/or site improvement;

3. A landscaping plan, indicating existing vegetation and plantings (trees, shrubs, etc.) and proposed plantings. Size, species and spacing shall be clearly indicated;
4. Building elevations (drawings to scale) for all proposed and/or modified buildings and any related buildings. Elevations of each exterior façade shall indicate all architectural details, window and door openings with dimensions and trim details, and materials, siding (wood clapboard, brick, etc.), roof, trim, colors to be used; and,
5. Photographs of the subject and neighboring properties.

The issuance of a zoning permit pursuant to Sec 3.2.9 for a COA Level I Application requires review and approval by the administrative officer pursuant to Sec. 3.2.7, based on conformance with the applicable district use and dimensional standards found in Art 4, parking requirements found in Art. 8, and the Site Plan Review and Architectural Review development standards found in Art. 6.

Depending on the nature, location, type, use, and/or size of the proposed development, the review and approval may also be subject to additional review and submission requirements pursuant to Articles 3, 4, and 5.

(d) Certificate of Appropriateness (COA) Level II Application

> ***Note****: The $21,000 threshold is in 2008 dollars and is annually adjusted based on the Consumer Price Index pursuant to Sec. 3.2.4(a). See the most current version of the application fee schedule available from the Dept. of Planning & Zoning.*

A COA Level II Application is necessary for those projects subject to Design Review pursuant to Sec. 3.4.2 with an estimated construction cost of greater than or equal to twenty-one thousand dollars ($21,000), tree removal pursuant to Sec. 3.1.2(a)(9), all projects subject to Conditional Use Review pursuant to Art 3, Part 5, and/or for those projects which include a request for a parking waiver pursuant to Sec. 8.1.15 or a variance pursuant to Art 12, Part 1.

Submission requirements for a COA Level II application include the following, as applicable:

1. All items required for a COA Level I application as noted in Sec. 3.2.2(c) above;
2. Color rendered elevations of all sides of the proposed building(s) and actual color samples for wall and roof materials. Elevations must show all roof-mounted equipment, ground-mounted equipment, building-mounted signs and/or sign bands, and building-mounted light fixtures;
3. At least two architectural wall cross-sections (one front wall and one side wall), at a scale of 1 inch equals 1 foot, illustrating the relief (e.g. projections and setbacks) of the architectural features shown in the building elevations;
4. At least one color-rendered perspective drawing from a realistic public vantage point showing the proposed building(s) and landscaping after five to seven years of growth;
5. A detailed plan for new landscaping that clearly identifies species by Latin name, readily understood symbol, and common name, and which shows all screening of parking, dumpsters, and ground mounted mechanical/electrical equipment. The

landscape plan should be accompanied by a brief statement of the landscape concepts and objectives. Where applicable, information should be submitted indicating streetscape design; and,

6. Depending on the nature, location, type, use, and/or size of the proposed development, the issuance of a zoning permit may also be subject to additional application, review and submission requirements pursuant to Articles 3, 4, 5, and 8.

All site plans and building elevations must be prepared in a professional manner acceptable to the administrative officer.

The issuance of a zoning permit pursuant to Sec 3.2.9 for a COA Level II Application requires review and approval by the DRB pursuant to Sec. 3.2.8, or by the administrative officer pursuant to Sec. 3.2.7, based on conformance with the applicable district use and dimensional standards found in Art 4, parking requirements found in Art. 8, and the applicable Site Plan Review and Architectural Review development standards found in Art. 6. Review of the proposal may also be required by the design advisory board and or/ the conservation board, which provides an advisory report to the DRB.

(e) Certificate of Appropriateness (COA) Level III Application:

A COA Level III Application is required for all land subdivisions (including lot line adjustments and mergers) and planned developments. Submission requirements include the materials required for a COA Level II Application submission as well as additional requirements as specified in Article 10 - Subdivision and Article 11 – Planned Development as applicable.

The issuance of a zoning permit pursuant to Sec 3.2.9 for a COA Level III Application requires review and approval by the DRB pursuant to Sec. 3.2.8, or by the administrative officer pursuant to Sec. 3.2.7, based on conformance with the applicable district use and dimensional standards found in Art 4, parking requirements found in Art. 8, and the applicable Land Division, Site Plan Review and Architectural Review development standards found in Art. 6. Review of the proposal may also be required by the design advisory board and or/ the conservation board, which provides an advisory report to the DRB.

Depending on the nature, location, type, use, and/or size of the proposed development, the issuance of a zoning permit may also be subject to additional application, review and submission requirements pursuant to Articles 3, 4, and 5.

Sec. 3.2.3 Modification of Submission Requirements

Depending on the location, type, use, and/or size of the proposed development, the issuance of a zoning permit may be subject to one or more of the following review processes which may impose additional submission requirements in order to review the proposal's conformance with the applicable review criteria:

- Site Plan Review - Article 3, Part 4 and Article 6;
- Design Review – Article 3, Part 4 and Article 6;

- Conditional Use and Major Impact Review- Article 3, Part 5;
- Special Uses – Article 5, Part 3;
- Signs – Article 7;
- Subdivision Review - Article 10; and,
- Planned Development Review - Article 11

The administrative officer may allow the modification of the application and submission requirements listed in Section 3.2.2, including combining existing and proposed information on the same site plan, provided that any modification enables adequate review of the zoning request.

Either the DRB or the administrative officer may require the submission of additional information when deemed necessary to make a decision on the zoning request in a timely manner. Such additional information may include but is not limited to the following:

1. A massing model or computer simulation, prepared to scale, illustrating the proposed structure(s) within its context of the terrain and surrounding buildings;
2. Site and building sections;
3. Evidence and documentation of existing or suspected environmental contamination including but not limited to environmental assessments, corrective action plans, and deed restrictions;
4. Materials specifications;
5. Floor plans (to assist in determining fees and parking requirements);
6. Shadow impact diagrams based on the spring or fall equinox;
7. Plans for outdoor seating and related amenities that encroach upon or materially impact the public right of way;
8. Phasing schedule;
9. Traffic impact and parking analysis; and/or
10. Streetscape elevations.

Sec. 3.2.4 Application Forms and Fees

All applications for a zoning permit shall be submitted on forms provided by the department of planning and zoning with the applicable fee. The administrative officer will assist the applicant in selecting the best type of application, or combination of applications, that best suites the proposed development. All permit applications are required to be signed by the property owner and applicant if different than the property owner.

(a) Fees:

Fees sufficient to cover the costs of administration, plan review and consultation, inspection, enforcement, publication of notice and similar matters may be charged to applicants for zoning permits, certificates of appropriateness, certificates of occupancy,

zoning amendments, conditional use approvals, variances, appeals, and other administrative relief.

The estimated construction cost threshold of $21,000 (2008 dollars) for COA Level I and Level II applications shall be automatically increased annually every July 1 equivalent to 100% of the annual change in the Consumer Price Index (CPI). The amount of fees charged shall be as set forth in the city's budget or as established by resolution of the city council and are not refundable.

Such fees may include but shall not be limited to:

1. Application and Filing Fees;
2. Development Review Fees;
3. Impact Fees; and,
4. Code Enforcement Fees.

Any application shall be deemed incomplete until such time as all applicable application fees are paid. No zoning permit shall be issued until such time as all applicable development review fees are paid. No zoning certificate of occupancy shall be issued until such time as all applicable impact fees and code enforcement fees are paid.

Application fees are based on the estimated fair market value of the construction costs for the type and scope of site improvements and construction being proposed. This is not the actual cost to the applicant. Applicants may be required by the administrative officer to document any fees calculated based on the estimated cost of construction in accordance with the most recent publication of the RS Means Construction Cost Estimation catalogue or equivalent.

(b) Posting of Property:

Any applicant requesting a zoning permit shall display on the subject premises an application notice provided by the department of planning and zoning. The notice shall be clearly visible from a public way, shall be displayed at the time of application, and shall not be removed until after the expiration date of the appeal period. To the extent feasible, the public should be able to read the application notice from the public way.

Sec. 3.2.5 Completeness of Submission, Administrator's Action

An application for a zoning permit shall not be complete until all submission requirements have been provided to the satisfaction of the administrative officer. The administrative officer shall take action with regard to a complete application within 30 days. Such action shall be to issue a decision on the application pursuant to the authority granted in Sec 3.2.7 of this Article, or by making a referral to the DRB.

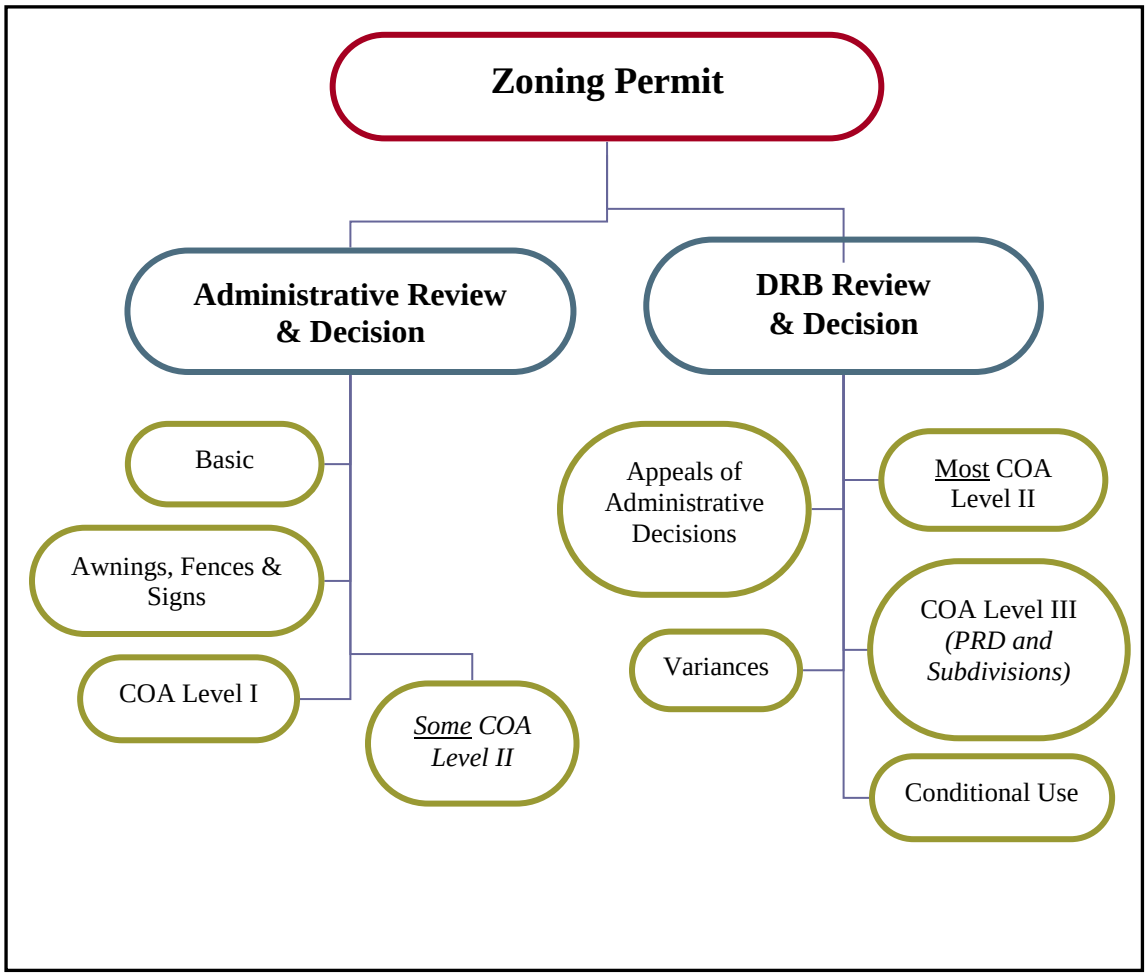
Should the administrative officer fail to take any such action, a permit shall be deemed issued on the 31st day pursuant to 24 VSA 4448(d). Modifications to a pending application by an applicant shall restart any applicable time limits, commencing upon the modification date.

Sec. 3.2.6 Effect of a Pending Ordinance

Pursuant to the requirements of 24 VSA 4449(d), any application filed within 150 days following the warning of a public hearing by the city council for an amendment to this ordinance shall be reviewed in accordance with the provisions of the proposed amendment and any other applicable provisions of the existing ordinance. If the proposed amendment has not been adopted by the conclusion of the 150-day period, or if the proposed amendment is rejected, the application shall be reviewed under existing bylaws and ordinances.

An application that has been denied under such a proposed amendment that has been rejected or that has not been adopted within the 150-day period shall be reviewed again, at no cost, under the existing ordinances, upon request of the applicant.

Getting to a Zoning Permit: Who Does What?



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 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 and will not substantively alter any findings of fact or DRB decision and related conditions of approval.

(b) Further Delegation by the Development Review Board:

In addition to administrative review and approval authorized above, the DRB may authorize the administrative review and approval of additional applications where such delegation of authority is permitted by law and is specified in writing in the DRB's *Rules of Procedure* with clearly specified thresholds and conditions under which the DRB classifies an application as eligible for administrative review. The thresholds and conditions shall be structured such that no new development shall be approved that results in a substantial adverse impact under any of the standards set forth in the bylaws. No amendment issued as an administrative review shall have the effect of substantively altering any of the findings of fact or DRB decision.

(c) Administrative Decisions:

The administrative officer shall act with regard to an application subject to administrative review pursuant to this section within 30 days of receiving a complete application. Decisions to deny the application shall be sent by certified mail to the applicant, and shall contain a statement of the period of time within which an appeal may be taken pursuant to the requirements of Article 12. A notice of a decision made in favor of the applicant shall be posted in a public place pursuant to Sec. 3.2.9(c).

Should the administrative officer fail to take such action, a permit shall be deemed granted on the 31st day pursuant to 24 VSA 4448(d).

(d) Appeal of Administrative Decisions:

Any decision or action by the administrative officer made under this article may be appealed to the DRB as specified under the provisions of Article 12.

Sec. 3.2.8 Development Review Board Review and Approval

Final decisions on all applications for a zoning permit not otherwise eligible for review and approval by the administrative officer pursuant to the provisions of Section 3.2.7 shall be made by the DRB.

(a) Public Notice:

Prior to any action by the DRB a copy of the applicable meeting agenda, or as applicable a public hearing notice pursuant to the requirements of Article 2, shall be sent by first class mail to all owners of land abutting the proposed project not less than seven days prior to the meeting. For condominium ownership, a notice to the condominium association shall satisfy the notice requirement.

Where applicable, applications to be reviewed pursuant to the provisions of Article 3, Part 5 – Conditional Use and Major Impact Review, Article 10 – Subdivision, Article 11 – Planned Development, and where otherwise required under this ordinance, shall require a public hearing pursuant to the requirements of Article 2.

The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Additionally, such notice shall also include posting of the date, place, and purpose of the meeting or public hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A. § 312(c)(2).

(b) Cost to the Applicant:

The applicant may be required to bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners. In such cases, the applicant shall be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

(c) Defect in Notice:

An error or defect in the notice provisions specified above shall not invalidate an action of the DRB unless such error was the result of a deliberate or intentional act.

(d) Independent Technical Review:

An applicant may be required to pay the reasonable costs and fees incident to an independent technical review of the application. When required for reviewing the proposed development under applicable criteria, and when the required expertise is either not available within city government or not available within the time frame necessary, the DRB may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in technical planning, design, natural resource, and engineering fields as determined necessary by the DRB for review of the proposed development. The consultant(s) shall work at the DRB's direction and shall provide such reports and assistance as the DRB deems necessary to review an application.

Fees for any such independent technical review shall be in addition to any application and development review fees collected, and shall be paid in full prior to the issuance of any zoning permit.

(e) Development Review Board Decisions:

The DRB may recess the proceedings on any application pending submission of additional information. The DRB should close the evidence promptly after all parties have submitted the requested information. The DRB shall adjourn the proceeding and issue a decision within 45 days after the adjournment of the proceeding. Failure of the DRB to issue a decision within this period shall be deemed approval of the application as submitted, and shall be effective on the 46th day.

Decisions shall be issued in writing and shall include a statement of the factual bases on which the DRB has made its conclusions and a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection. The decision shall also contain a statement of the period of time within which an appeal may be taken pursuant to the requirements of Article 12.

Any decision shall be sent by certified mail within 45 days after the adjournment of the proceeding to the applicant and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the proceeding and a copy of the decision shall be filed with the administrative officer and the city clerk as a part of the public records of the city.

In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this chapter and the pertinent bylaws and the municipal plan then in effect. Such conditions shall be made part of a zoning permit granted by the administrative officer.

Sec. 3.2.9 Zoning Permits

(a) Issuance of Permits:

A zoning permit may be granted and released by the administrative officer only in conformance with this ordinance, and subject to all applicable submission and review requirements described by this ordinance.

Zoning permits issued under the provisions of this ordinance may contain one or all of the following:

1. **Standard Permit Conditions** and other specific conditions and requirements as may be necessary for the approval for all development applications reviewed pursuant to the requirements of this ordinance;
2. **Conditions of Approval** for development applications subject to the requirements of Conditional Use Review (Article 3, Part 5); and,
3. **Findings of Fact** for development applications subject to the requirements of Conditional Use Review (Article 3, Part 5), Subdivision Review (Article 10), Planned Development (Article 11), and Variances (Article 12).

(b) Permit Appeal Period:

No zoning permit granted under this ordinance shall be released until a fifteen (15) day appeal period has passed. In the event that a notice of appeal pursuant to the requirements of Article 12 is properly filed, such permit shall not be released until the adjudication of said appeal has been finalized.

(c) Posting of Permit – Administrative Officer:

Within three (3) days following the granting of a zoning permit, the administrative officer shall:

1. Deliver a copy of the permit to the City Assessor; and,
2. Post a notice of the permit in City Hall until the expiration of fifteen (15) days from the date of issuance of the permit.

The permit notice shall have sufficient detail, to inform the public of proposed scope of the project and contain a statement of the period of time within which an appeal may be taken pursuant to the requirements of Article 12.

(d) Time Limit on Zoning Permits:

Notwithstanding (e) and (f) below, a zoning permit shall become invalid unless the work or action authorized commences within one (1) year after the date of final decision. All work or action authorized there under shall be completed, and a Final Zoning Certificate of Occupancy received, within two (2) years of the date of decision unless a written extension of time not to exceed one (1) year is granted in advance by the administrative officer. Extensions of time for a zoning permit issued in connection with a conditional use or variance shall require approval by the DRB after a public hearing.

(e) Time Limit on Zoning Permits: Violations:

Notwithstanding (f) below, a zoning permit which is issued in connection with a violation of this ordinance shall become invalid unless the work or action authorized is completed, and a Final Zoning Certificate of Occupancy is received, within one (1) year of the date

of decision unless an extension of time not to exceed one (1) year is approved in advance after public hearing by the DRB.

(f) Exceptions to Permit Time Limits:

Except for projects subject to additional state or federal permitting jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Sec. 3.2.9(d) and (e) unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.

For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority. For projects under appeal pursuant to the requirements of Article 12, the date of decision shall be deemed to be the date of the decision adjudicating such appeal.

Sec. 3.2.10Performance Bond or Financial Surety

As security for the completion of any required improvements, the DRB may require from the subject property owner for the benefit of the city, a performance bond, irrevocable escrow, or irrevocable letter of credit, issued by a bank, bonding or surety company approved by the city council or by the owner with security acceptable to the city council, in an amount sufficient to cover the full cost of said required improvements and their maintenance for a period of two (2) years after completion as is estimated by the DRB or such municipal departments or officials as the DRB may designate. Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required within the period fixed in the regulations for such completion, and for the maintenance thereof for a period of two (2) years after completion.

Any required performance bond shall run for a term to be fixed by the DRB, but in no case for a term longer than three years. However, with the consent of the owner, the term of that bond may be extended for an additional period not to exceed three years. If any required improvements have not been installed or maintained as provided within the term of the security instrument, the security shall be forfeited to the city and upon receipt of the proceeds of the security, the city shall install or maintain such improvements as are covered by the security.

Sec. 3.2.11Zoning Certificate of Occupancy

It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure, or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this ordinance without a zoning certificate of occupancy issued by the administrative officer.

The zoning certificate of occupancy shall state that the proposed use of the structure or land conforms to the requirements of a permit and related conditions received under this ordinance. A building certificate of occupancy issued by the division of inspection services

shall not constitute a zoning certificate of occupancy unless so specifically authorized in writing by the administrative officer.

PART 3: IMPACT FEES

Sec. 3.3.1 Purpose

These regulations are enacted to enable the city to require the beneficiaries of new development to pay their proportionate share of the cost of municipal and school capital projects which benefit them, and to require them to pay for or mitigate the negative effects of development in the community.

Sec. 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Sec. 3.3.4.

Sec. 3.3.3 Exemptions and Waivers

(a) Exemptions:

The following types of development are exempt from this Part:

1. additions to existing dwelling units, provided such additions are for residential purposes;
2. alterations to an existing use provided that such alteration occurs entirely within an existing building and within the same square footage;
3. land development which does not result in new building square footage (e.g. parking lots, facade renovations, signs, etc.);
4. additions to existing buildings for which the sole purpose is to provide additional means of egress (e.g. stair towers, elevators, etc).

(b) School Impact Fee Exemption:

That portion of impact fees attributable to school impacts shall not be required for senior citizen housing projects or for that portion of a project where certain units are reserved specifically for the elderly. Any project, or portion thereof, which meets either state or federal guidelines for elderly housing, shall be deemed a senior citizen housing project and eligible for a full or partial waiver of school impact fees.

(c) Affordable Housing Waivers:

Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3)

below are eligible for a waiver of impact fees for that portion of the project. The terms, rules, and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9). For purposes of determining median income, the income levels specified in Article 9 of this Ordinance, or the most recent amendment thereto, shall be applicable.

1. 25% Waiver of Fees: Twenty-five percent (25%) of the fees will be waived for any unit in a project that initially sells for a price that is affordable for households below 90% of median income or that initially rents for a three year period for a price (including utilities) that is affordable for households below 75% of median income.
2. 50% Waiver of Fees: Fifty percent (50%) of the fees will be waived for that portion of a residential project that meets the dual test of initial affordability and continuing affordability. For the purposes of this section, "initial affordability" would be defined as a unit that sells for a price that is affordable for households earning less than 75% of median income or that rents for a price (including utilities) that is affordable for households earning below 65% of median. "Continuing affordability" would be defined as affordability that lasts for a period of 99 years.
3. 100% Waiver of Fees: One hundred percent (100%) of the fees will be waived for that portion of a residential project that initially sells or rents for a price that is affordable for households earning less than 50% of median income and that remains continually affordable as defined above.

(d) Community Garden Waivers:

A development that creates new community gardens as defined in Article 13 of this ordinance shall be provided a waiver of the parks impact fee in an amount equivalent to the actual cost of installation of the community garden created. The value of the garden shall be supported by a tabulation of the actual cost of installing the community garden and shall be subject to review and approval by the Department of Parks & Recreation. The waiver of parks impact fees shall not exceed 100% of the parks impact fee that would otherwise be paid.

To be eligible for the waiver, the community garden shall meet the following standards:

1. The community garden shall be made available to residents of the property and of the surrounding area.
2. It shall be located onsite in consultation with the Department of Parks & Recreation to ensure adequate solar access, visibility, and accessibility.
3. It shall contain an area of at least 360 square feet (i.e. such as 18 ft X 20 ft) with at least six (6) 4 ft X 8 ft plots and 2 ft wide aisles between plots. Soil testing to determine the safety of the soil for food gardening purposes shall be the responsibility of the applicant (or property owner if different). Where soils are found to be unsafe for food gardening purposes, the community garden plots shall be in the form of raised beds with imported soil safe for food gardening use.

Results of soil testing shall be subject to review by the Department of Parks & Recreation.

4. It shall either be managed as a neighborhood garden by the Burlington Area Community Gardens program operated by the Department of Parks & Recreation or privately managed to the same operating standards as a neighborhood garden. If privately managed, all maintenance and repair costs shall be the responsibility of the applicant (or property owner if different). The community garden shall be managed as such for the duration of the approved development.
5. It shall be created within an area of the city consistent with the express goals and strategic plans of the Department of Parks & Recreation. The Department of Parks & Recreation may reject creation of a new community garden and require payment of the full impact fee if the development is located in an area of the city that is already adequately served by community gardens.
6. The completed community gardens shall be guaranteed for a period of five (5) years following their completion. All repairs and maintenance of the community gardens within this period shall be at the cost of the applicant (or property owner if different).

Sec. 3.3.4 Calculation of Impact Fee

In categories for which impact fees have been charged, no exactions for construction of offsite public facilities will be required as a condition for a zoning permit except for water distribution lines, sewer connection lines and stormwater improvements, and street and sidewalk infrastructure that are essential to the development of the project.

For the purposes of this section, "offsite" public facilities are defined as those facilities which are not on or immediately adjacent to the private land proposed for development.

Sec. 3.3.5 Calculation of Impact Fee

The amount of impacts fees shall be as set forth in the *Impact Fee Administrative Regulations* as established by resolution of the city council. There shall be an automatic annual increase to the impact fee schedule reflected in the *Impact Fee Administrative Regulations* every July 1 equivalent to 100% of the annual change in the Consumer Price Index (CPI).

Impact fees are calculated on the total gross square footage of the principal use of a building, including accessory uses. In the event there is more than one principal use within a building, impact fees will be calculated separately for each principal use and associated accessory uses, with common space computed on a pro-rata basis.

Sec. 3.3.6 Effect of Project Change on Impact Fees

If a proposed development is substantially modified in terms of square footage, a request for an adjustment to the impact fee may be made by filing a zoning permit application subject to

the applicable filing fees. Any adjustment, if approved, is subject to the *Impact Fee Administrative Regulations* in effect at time of the subsequent approval. Any change which increases a project size or impact shall require a new zoning permit and an accompanying adjustment to the impact fee amount.

For a change of use where there is an increased impact, the impact fee will be the difference in the amount for the specific uses as listed in the *Impact Fee Administrative Regulations*. If there is no change in use and no increase in square footage for that use, the impact fee would be $0.

Sec. 3.3.7 Demolition or Change to Existing Building

No impact fee rebates shall be assessed for the demolition of an existing building, a reduction in size of an existing building, or a change in the use of an existing building. There are no rebates if one decides to reduce the use of (or is unable to use) one's property for any reason.

Sec. 3.3.8 Time and Place of Payment

Impact fees must be paid to the city's chief administrative officer/ city treasurer according to the following schedule:

(a) New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof;

(b) Existing Buildings: Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.

Sec. 3.3.9 Penalties for Nonpayment

If an impact fee is not paid, a certificate of occupancy shall be denied, a lien may be placed upon the property, and a fine of $200 a day shall be assessed along with other court-imposed penalties.

Sec. 3.3.10 Expenditure and Distribution of Impact Fees

Impact fees must be used for capital improvements to accommodate the demands created by new growth. The city's chief administrative officer/ city treasurer shall maintain records of all impact fee receipts and disbursements by category, and include a summary of same in each city Annual Report. Any expenditure of impact fees must be authorized by the city's chief administrative officer/ city treasurer.

Impact fees received will be distributed to city departments, upon authorization by the city's chief administrative officer/ city treasurer, solely for the purpose of capital projects, according to the *Impact Fee Administrative Regulations*.

If an impact fee is not expended on eligible capital improvements by the city within six (6) years of payment, it must be refunded to the property owner by the city's chief administrative officer/ city treasurer along with any accrued interest.

Sec. 3.3.11 Relationship to Other Fees

Impact fees do not replace other fees pertaining to development projects. All applicable permit fees, including, but not limited to, development review fees and building permit fees, must be paid prior to occupancy.

PART 4: SITE PLAN AND DESIGN REVIEW

Sec. 3.4.1 Purpose

These site plan review regulations are enacted to provide for the consideration of site features and their location and arrangement so as to protect important natural and cultural features, ensure the adequacy of parking and circulation, provide for necessary landscaping and screening, and protect and maintain the character and development pattern of the surrounding area.

Additionally, design review regulations are intended to provide for the detailed review of certain uses, structures, and architectural features in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community has a particular interest in the design of future development in order to address specific land development objectives.

Sec. 3.4.2 Applicability

(a) Site Plan Review:

Site Plan Review shall be required for the approval of all development subject to the provisions of this ordinance with the exception of single-family dwellings not otherwise subject to the requirements of Design Review.

(b) Design Review:

Design Review shall be required for the approval of all development subject to the provisions of this ordinance within the Design Review Overlay District as defined in Article 4, Sec. 4.5.1, and any of the following:

1. Any development subject to the provisions of Article 3, Part 5 – Conditional Use and Major Impact Review;
2. Any development subject to the provisions of Article 5, Part 3 – Non-Conformities;
3. Any development subject to the provisions of Article 5, Part 4 – Special Use Regulations;
4. Any development subject to the provisions of Sec. 7.1.6 Non-Conforming Signs and Article 7, Part 3 Sign Plans;

5. Any development subject to the provisions of Article 10 – Subdivision;
6. Any development subject to the provisions of Article 11 – Planned Development; and,
7. Any development made subject to the provisions of this Part by direct reference not otherwise noted here.

Sec. 3.4.3 Submission Requirements

In addition to the applicable application and submission requirements pursuant to Sec. 3.2.2, all applications for a zoning permit subject to Site Plan and/or Design Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable development principles and standards found in Article 6.

Sec. 3.4.4 Review Criteria

Approval of an application for a zoning permit may be granted by the DRB, or the administrative officer where applicable, only after it has been determined that the proposed development satisfies the applicable development review principles and standards contained in Article 6 - Development Review Standards.

PART 5. CONDITIONAL USE AND MAJOR IMPACT REVIEW

Sec. 3.5.1 Purpose

These conditional use regulations are enacted to provide for a more detailed consideration of development proposals which may present a greater impact on the community

Additionally, it is the intent of these regulations through the creation of a major impact review:

(b) To ensure that projects of major significance or impact receive a comprehensive review under established criteria; and,

(c) To ensure that the city's natural, physical and fiscal resources and city services and infrastructure are adequate to accommodate the impact of such developments, both individually and cumulatively.

Sec. 3.5.2 Applicability

(a) Conditional Use Review:

Conditional Use Review shall be required for the approval of all development subject to the following provisions of this ordinance:

1. any use identified under Article 4 and Appendix A – Use Table as a "Conditional Use" or "CU;"
2. any Special Use specifically identified as being subject to conditional use review under Article 5, Part 3;

(b) Major Impact Review:

In addition, Major Impact Review shall be required for the approval of all development involving:

1. The construction of five (5) or more dwelling units or the creation through adaptive reuse, substantial rehabilitation or conversion of ten (10) or more dwelling units;
2. The creation of five (5) or more lots;
3. The construction or substantial rehabilitation of fifteen thousand (15,000) s.f. or more of gross floor area of non-residential development;
4. Land disturbance involving one acre or more;
5. Site improvements involving fifty (50) or more parking spaces;
6. Site improvements and land development on parcels that contain designated wetlands as regulated pursuant to Article 4, or natural areas of state or local significance as identified in the municipal development plan;
7. Site improvements and land development on parcels seeking a waiver under Article 5, Part 4, Sec. 5.4.9 – Brownfields; or
8. Multiple projects by the same applicant or responsible party within any consecutive twelve (12) month period on the same property or on a property within 1000 feet of the subject property that in the aggregate equal or exceed the above criteria.

Sec. 3.5.3 Exemptions

Conditional Use and Major Impact Review shall not apply to applications involving one or more of the following:

(a) Temporary structures that do not otherwise involve a conditional use;

(b) Substantial rehabilitation that does not expand the floor area of an existing building or the structural capacity of existing development;

(c) Projects that do not result in a change of use or increased parking demand; and,

(d) Subsurface site improvements including but not limited to underground utility lines and subsurface drainage ways.

Sec. 3.5.4 Submission Requirements

In addition to the applicable application and submission requirements under in Section 3.2.2, all applications for a zoning permit subject to Conditional Use and/or Major Impact Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable review criteria of Section 3.5.6 pursuant to Section 3.2.3.

Any development subject to Major Impact Review under this Part shall also include an affidavit or certification documenting that the Pre-Application Public Neighborhood Meeting requirement pursuant to Sec. 3.2.1(d) has been satisfied in accordance with the procedures and requirements set forth by the department of planning and zoning.

Pursuant to Sec. 3.2.8(D), the DRB may require the applicant to pay the reasonable costs and fees incident to an independent technical review of the application.

Sec. 3.5.5 Public Hearing Required

Applications involving Conditional Use and Major Impact Review shall require a public hearing pursuant to the provisions of Article 2 to provide an opportunity for public input and comment to the DRB on the proposed use and it's conformity with the review criteria listed below.

Sec. 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

(a) Conditional Use Review Standards:

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;
2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;
3. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;
4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on

pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies; and,

5. The utilization of renewable energy resources; and,
6. Any standards or factors set forth in existing City bylaws and city and state ordinances;

(b) Major Impact Review Standards:

Before a major impact development may receive approval, the DRB must be satisfied, based on documentation provided by appropriate city agencies, experts, interested parties and/or the applicant that the proposed development shall:

1. Not result in undue water, air or noise pollution;
2. Have sufficient water available for its needs;
3. Not unreasonably burden the city's present or future water supply or distribution system;
4. Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;
6. Not cause an unreasonable burden on the city's ability to provide educational services;
7. Not place an unreasonable burden on the city's ability to provide municipal services;
8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;
9. Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;
10. Be in substantial conformance with the city's municipal development plan and all incorporated plans;
11. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location; and/or
12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

(C) Conditions of Approval:

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
2. Time limits for construction.
3. Hours of operation and/or construction to reduce the impacts on surrounding properties.
4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,
5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

Sec. 3.5.7 Development Review Board Decisions, Findings of Fact

In issuing a decision regarding an application for development subject to Conditional Use and/or Major Impact Review, the DRB shall issue Findings of Fact regarding the proposed application's satisfactory conformance with each of the review standards of Sec. 3.5.6, and may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the city's municipal development plan.

Pursuant to the requirements of Sec. 3.2.8(e), the DRB shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of close of the final public hearing held under this section, and failure to so act within such period shall be deemed approval.

Any and all plans and documents pertaining to a request for Conditional Use and/or Major Impact Review as approved by the DRB along with the Findings of Fact issued, shall be incorporated into any permit issued, and except as otherwise provided, all development shall occur strictly in accordance with such approved plans, applications, findings, and conditions.

PART 6. COMBINED REVIEW

Sec. 3.6.1 Intent

The intent of this part is to provide for the orderly and efficient review of development applications for a zoning permit which may be subject to multiple application submission requirements and review processes.

Sec. 3.6.2 Authority

In accordance with 24 V.S.A. § 4462, in cases where a proposed project will require more than one type of review under the provisions of this ordinance, the DRB may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The

administrative officer shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review.

Notice for a combined review hearing shall be made in accordance with statutory authority. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing.

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate

ARTICLE 4: ZONING MAPS AND DISTRICTS

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes zoning districts throughout the city and the district-specific uses, standards and regulations for each. It also establishes a series of overlay districts which modify the underlying regulations in special or specific circumstances.

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Sec. 4.0 Intent & Authority

These regulations are enacted under the provisions of 24 V.S.A. Chapter 117 with the purpose of:

(a) Dividing all land within the city into zoning districts for the purpose of regulating land use and development;

(b) Providing uniform provisions for each class of uses or structures within each

district; and,

(c) Requiring that every parcel of land and every structure in the city, except as otherwise provided by law or by this ordinance, be subject to the regulations, restrictions, and requirements specified for the district in which it is located.

PART 1: ZONING MAP

Sec. 4.1.1 Title

There shall be a map known and designated as the "Official Zoning Map, City of Burlington, VT" (see Map 4.3.1-1) which shall show the boundaries of all zoning districts within the city. The map shall be maintained by the department of planning and zoning in a digital form within the city's geographic information system. An official copy shall be dated and displayed for public reference.

Sec. 4.1.2 Loss or Damage

Should the Official Zoning Map be lost, destroyed or damaged, the administrative officer may have a new map prepared. Computer-generated zoning maps, or copies thereof showing identical data, may be used as substitutes for prints. No further city council authorization or action is required so long as no district boundaries are changed in this process.

Sec. 4.1.3 Amendments & Revisions

Amendments to this map shall be made pursuant to statutory authority and shall be automatically incorporated herein upon adoption. Only the administrative officer, or his or her designee, shall be authorized to alter or modify the Official Zoning Map in accordance with actions of the city council.

The administrative officer shall update the official zoning map and any data bases used for computer-generated zoning maps as soon as possible after amendments to it are adopted by the city council. Upon entering any such amendment, the administrative officer shall change the date of the map to indicate its latest revision. New prints or copies of the map may then be issued.

The department of planning and zoning shall keep copies of superseded prints of the zoning map for historical reference.

Sec. 4.1.4 Interpretation of District Boundaries

Zoning district boundaries are intended to follow the center line of highways, roads, alleys, railroads, streams, other bodies of water, civil division lines, land lot lines, property lines, or contour lines, or from a specified distance from any of the aforementioned. All such lines or

center lines shall be construed to be such boundaries as they existed at the time of passage of this ordinance;

Where uncertainty exists as to the boundaries of any district shown on the official zoning map, the following rules shall apply:

(a) Where district boundaries appear to approximately follow the center line of highways, roads, alleys, railroads, streams, other bodies of water, civil division lines, land lot lines, property lines or contour lines, such lines or center lines shall be construed to be such boundaries as they existed at the time of passage of this ordinance;

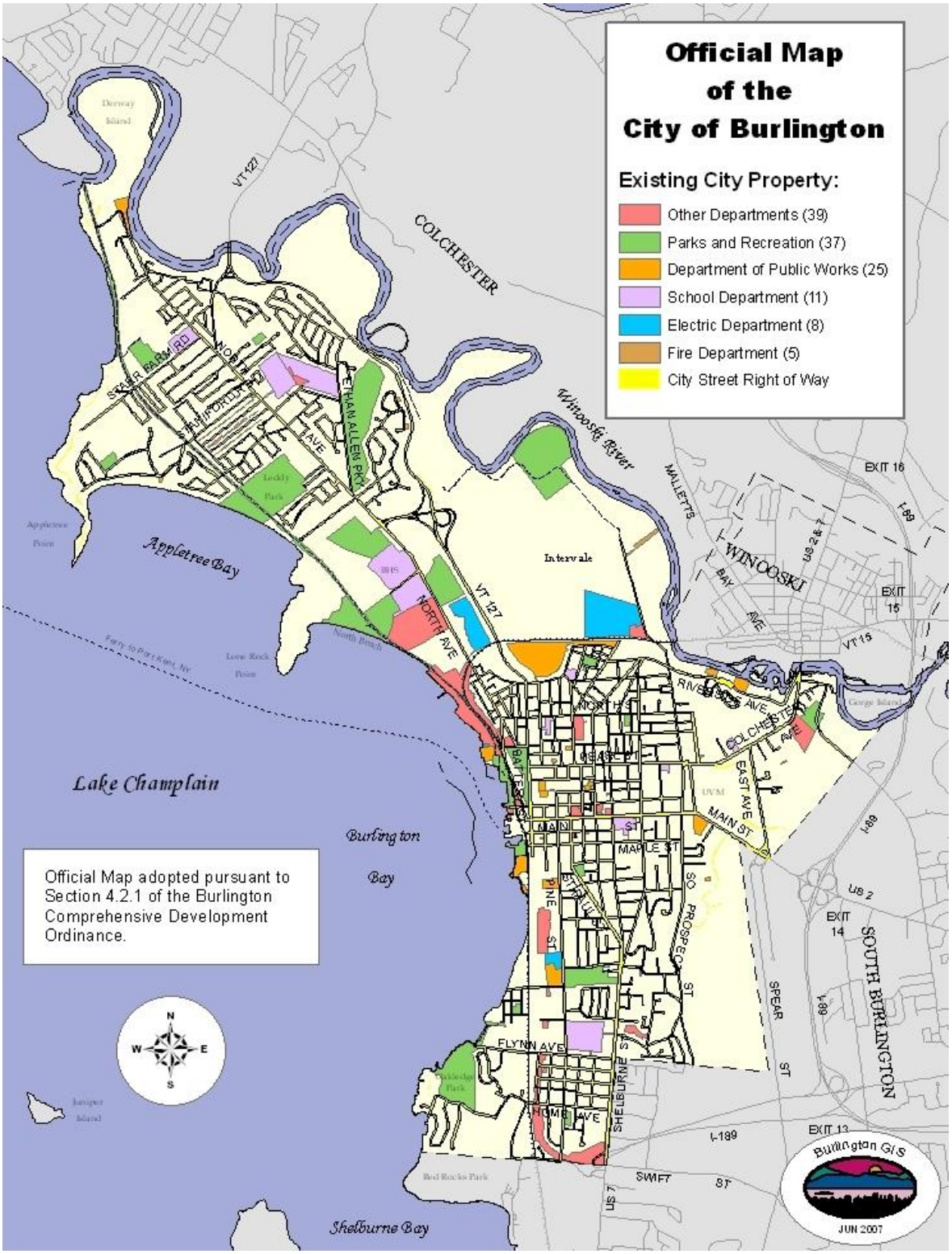
(b) Where district boundaries are indicated as being measured from or being parallel to the center line of highways, roads, alleys, railroads, civil division lines, land lot lines, or property lines, such boundaries shall be construed as being measured from or being parallel thereto and at a distance therefrom as indicated or as determined by the scale shown on the zoning map; and

(c) If further uncertainty exists, the administrative officer shall make a determination as to the location of the boundaries based on the graphic scale of the zoning map.

PART 2: OFFICIAL MAP

Sec. 4.2.1 Authority and Purpose

A map entitled "The Official Map of the City of Burlington" is hereby established that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements. The intent is to provide the opportunity for the city to acquire land identified for public improvements prior to development for other use, and to identify the locations of required public facilities for new subdivisions and other development under review by the city.



Map 4.2.1-1 Official Map of the City of Burlington

Sec. 4.2.2 Waterfront Core Official Map Established

A map entitled "The Official Map of the Waterfront Core" is established as part of the Official Map established above, is to be dated as of the effective date hereof, is to be located in the department of zoning and planning and is incorporated herein by reference. The proposed streets, public ways, public parks and other public lands and visual corridors contained therein are more particularly described as follows:

(a) A pedestrian easement thirty (30) feet in width along the center line of Main Street extended to Lake Champlain west of the Union Station building;

(b) A waterfront pedestrian easement fifty (50) feet in width abutting the ordinary high water mark of Lake Chaplain from Maple Street extended to College Street;

(c) A waterfront pedestrian easement one hundred (100) feet in width abutting the ordinary high water mark of Lake Champlain from College Street extended to the north property line of the city-owned lands designated as "urban reserve" and formerly owned by the Central Vermont Railway;

(d) Visual corridors and/or pedestrian ways sixty (60) feet in width along the center lines of Bank, Cherry, Pearl and Sherman streets extended west to Lake Champlain and visual corridors above the fourth floor along Main Street and College Street;

(e) The following existing streets remain: Maple and King Streets and as extended to Lake chaplain; Main street; College Street and as extended to Lake Champlain; Lake Street from Main Street to College Street; Depot Street; and Battery Street;

(f) An easement for pedestrians and bicycles twenty (20) feet in width, located adjacent to and west of the old Rutland railway right-of-way and owned by the State of Vermont running between the King Street Dock and College Street; and,

(g) Lake Street (north) modified: The portion of Lake Street is a street seventy (70) feet in width, the center line of which commences on the north line of College Street thence running northerly following the center line of existing Lake to a point intersecting the northerly property line of the Moran Generating Station extended east.

Map 4.2.2-1 Waterfront Core Official Map

Sec. 4.2.3 Permit Denial Regarding Official Map Parcels

If a permit for any structure within the lines of any proposed street, drainage way, park, school, or other public facility shown on the Official Map or the Waterfront Core Official Map is denied, the city council shall have one hundred and twenty (120) days from the date of the denial of the permit to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the administrative officer shall issue the permit if the application otherwise conforms to all the applicable bylaws.

PART 3: ZONING DISTRICTS ESTABLISHED

Sec. 4.3.1 Base Districts Established:

The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below.

(a) A series of five (5) **Downtown Mixed Use** districts: *(see Sec. 4.4.1)*

- Downtown (D);
- Downtown Transition (DT);
- Downtown Waterfront (DW);
- Downtown Waterfront –Public Trust (DW-PT); and,
- Battery Street Transition (BST);

(b) A series of three (3) **Neighborhood Mixed Use** districts: *(see Sec. 4.4.2)*

- Neighborhood Mixed Use (NMU);
- Neighborhood Activity Center (NAC); and
- Neighborhood Activity Center - Riverside Corridor (NAC-RC);

(c) A series of two (2) **Enterprise** districts: *(see Sec. 4.4.3)*

- Agricultural Processing and Energy (E-AE); and,
- Light Manufacturing (E-LM);

(d) An **Institutional** district, as follows: *(see Sec. 4.4.4)*

(e) A series of five (5) **Residential** districts: *(see Sec. 4.4.5)*

- High-Density Residential (RH);
- Medium-Density Residential (RM);
- Medium-Density Residential - Waterfront (RM-W);
- Residential Low Density (RL); and,
- Residential Low Density - Waterfront (RL-W);

(f) A series of three (3) **Recreation, Conservation, and Open Space** districts: *(see Sec. 4.4.6)*

- Agriculture (RCO-A);
- Recreation/Greenspace (RCO-RG); and,
- Conservation (RCO-C);

(g) An **Urban Reserve District (UR).** *(see Sec. 4.4.7)*

Sec. 4.3.2 Overlay Districts Established:

Overlay districts are overlaid upon the base districts established above, and the land so encumbered may be used and altered in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted in the applicable overlay district. The following districts are established as overlay districts as further described in Part 5 below:

(a) A **Design Review Overlay (DR)** district**;**

(b) A series of five (5) **Institutional Core Campus Overlay (ICC)** districts, as follows:

- FAHC Medical Center Campus (ICC-FAHC);
- UVM Central Campus (ICC-UVM);
- UVM Trinity Campus (ICC-UVMT)
- UVM South of Main Street Campus (ICC-UVMS); and,
- Champlain College (ICC-CC);

(c) An **RH Density Bonus Overlay (RHDB)** district**;**

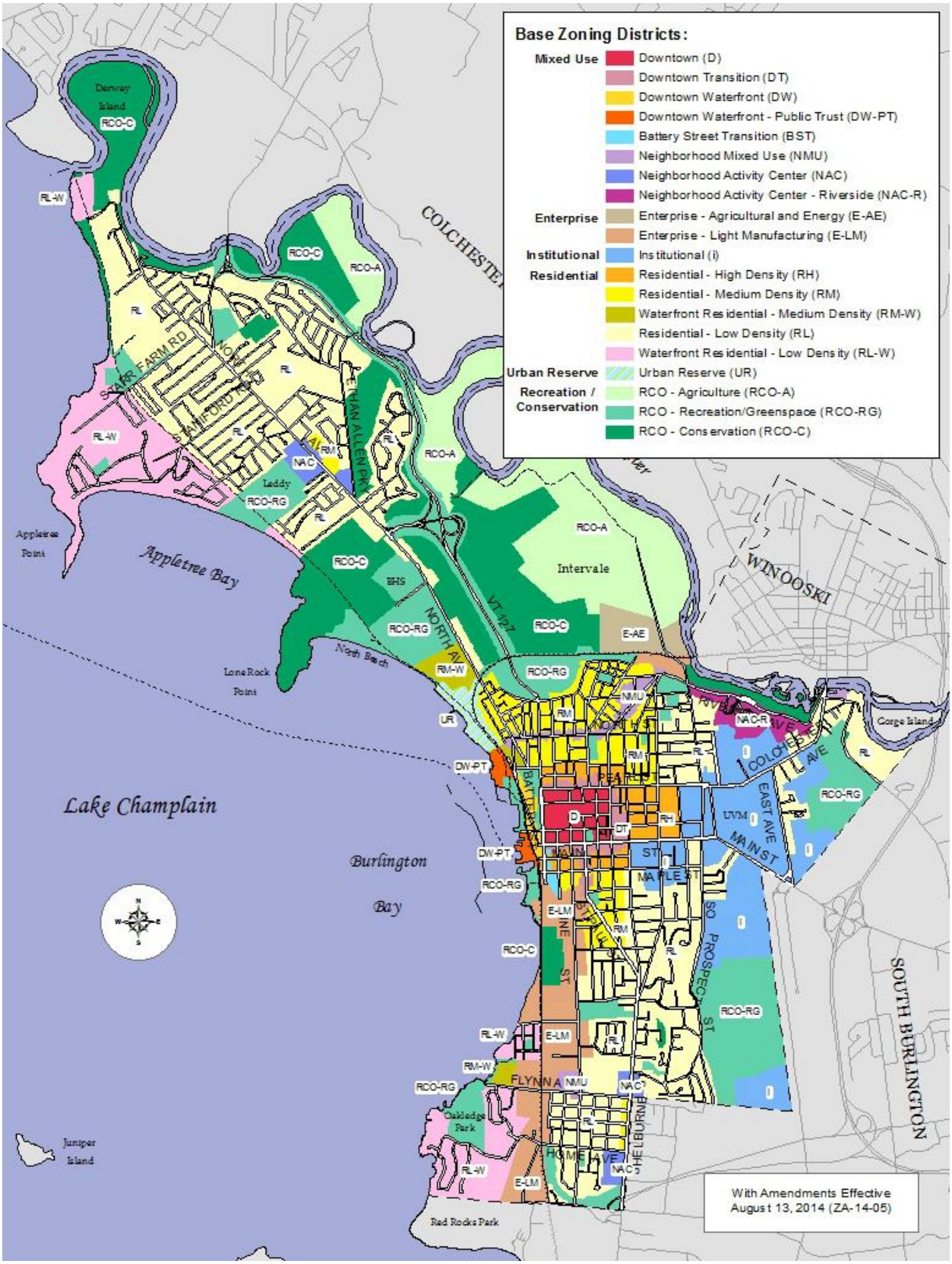
(d) A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:

- Riparian and Littoral Conservation Zone;
- Wetland Protection Zone;
- Natural Areas Zone; and,
- Special Flood Hazard Area;

(e) A **RL Larger Lot Overlay (RLLL)** district;

(f) A **Mouth of the River Overlay (MOR)** district; and,

(g) A **Centennial Woods Overlay (CWO)** district


Base Zoning Districts:
Mixed Use
Downtown (D)
Downtown Transition (DT)
Downtown Waterfront (DW)
Downtown Waterfront - Public Trust (DW-PT)
Battery Street Transition (BST)
Neighborhood Mixed Use (NMU)
Neighborhood Activity Center (NAC)
Neighborhood Activity Center - Riverside (NAC-R)
Enterprise
Enterprise - Agricultural and Energy (E-AE)
Enterprise - Light Manufacturing (E-LM)
Institutional
Institutional (i)
Residential
Residential - High Density (RH)
Residential - Medium Density (RM)
Waterfront Residential - Medium Density (RM-W)
Residential - Low Density (RL)
Waterfront Residential - Low Density (RL-W)
Urban Reserve
Urban Reserve (UR)
Recreation / Conservation
RCO - Agriculture (RCO-A)
RCO - Recreation/Greenspace (RCO-RG)
RCO - Conservation (RCO-C)
Derway Island
Appletree Point
Appletree Bay
Lake Champlain
Burlington Bay
Lone Rock Point
North Beach
Juniper Island
Red Rocks Park
Oakledge Park
Leddy
Intervale
Gorge Island
COLCHESTER
WINOOSKI
SOUTH BURLINGTON
STARR FARM RD
NORTH AVE
BANFORD RD
ETHAN ALLEN PKY
VT 127
BATTERY ST
MAIN ST
MARKET ST
COLLEGE ST
EAST AVE
SO. PROSPECT ST
SHELBURNE ST
FLYNN AVE
HOME AVE
With Amendments Effective August 13, 2014 (ZA-14-05)

Map 4.3.1-1 Base Zoning Districts

PART 4: BASE ZONING DISTRICT REGULATIONS

Sec. 4.4.1 Downtown Mixed Use Districts

(a) Purpose:

The Downtown Mixed Use districts are intended to provide for a diverse and vibrant mixture of commercial and residential development within Burlington's most highly developed and dynamic urban core. A broad range of uses that support a balance between residential and non-residential uses are encouraged reflecting Burlington's role as a regional urban center for commerce, culture, and government. Residential uses are encouraged on upper floors, but are intended to be secondary to non-residential uses and shall not be allowed to define or dominate the overall development objectives and standards for the district. Residential development must be cognizant of nearby non-residential uses in their design and construction, so as to minimize disturbance to residents from non-residential uses. Active uses are to be provided at street-level in order to create an active and interesting streetscape for pedestrians and enhance the vitality of the downtown area.

Development is intended to be intense with high lot coverage and large tall buildings placed close together. Development should complement the historic development pattern, and sensitive transitions should be provided where there is great difference in scale between the old and new. Development should be pedestrian-oriented with buildings oriented to the sidewalk with a strong emphasis on creating a safe and inviting streetscape. Buildings shall be designed with a high level of architectural detailing to help maintain a sense of scale so that they provide visual interest and create enjoyable, human-scale spaces. Parking is intended to be hidden within, behind, or underneath structures, and parked vehicles should not be visible from the street.

The 5 Downtown Mixed Use districts as illustrated in Map 4.4.1-1 are further described as follows:

1. The **Downtown** (D) is the primary urban center of Burlington;
2. The **Downtown Transition District** (DT) is intended to provide a balance and continuity in the character and scale of development on both sides of Main St., Pearl St. and So. Winooski Ave., creating gateways into the urban core of Burlington, and a transition between the Downtown and the nearby residential district.

   For the purposes of regulating building height in such a way as to ensure a transition of building scale between the Downtown and nearby residential areas, the Downtown Transition District is further divided into the following three (3) areas as depicted in Map 4.4.1-1 and subject to the height limits as defined in Table 4.4.1-1 below:

   A. D-T North: Properties with frontage on the north side Pearl Street from Battery Street to Winooski Avenue, and along the east side of South Winooski Avenue from Pearl Street to Buell Street;

B. **D-T Main St. South:** Lots of record as of January 1, 2007 with frontage along the south side of Main St. in that portion of the Downtown Transition District (DT) between Main St. to King St. and from Battery Street to South Winooski Avenue;

C. **D-T South:** Properties with frontage on the east side of South Winooski Avenue from Buell Street to Main Street, the west side of South Union St from Bradley Street to Main Street, both sides of Main St from South Union St. to South Winooski Avenue, both sides of St. Paul Street between Main and Maple Street, and the south side of Main Street from South Union St. to Battery Street not otherwise included in the D-T Main St. South subdistrict above; and,

D. **D-T Maple South.:** Properties with frontage on both sides of St. Paul Street south of Maple Street to the Enterprise District.

3. The **Downtown Waterfront District** (DW) is intended to enhance and diversify commercial and residential development in the downtown waterfront area.

   For the purposes of regulating building height in such a way as to provide vistas along Battery Street of harbor activity within the breakwater area, and to preserve panoramic views along public street corridors of the mountains and lake, the Downtown Waterfront District is further divided into the following areas as depicted in Map 4.4.1-1, and subject to the height limits as defined in Table 4.4.1-1 below:

   A. **North of Pearl:** Properties north of the centerline of Pearl Street extended and east of the railroad;

   B. **Pearl-Bank - East:** Properties between the centerline of Pearl Street and Bank Street extended and east of Lake St.;

   C. **Pearl-Bank - West:** Properties between the centerline of Pearl Street and Bank Street extended and west of Lake St.;

   D. **Bank-College - East:** Properties between the centerline of Bank Street extended and College Street and east of Lake St.;

   E. **Bank-College - West:** Properties between the centerline of Bank Street extended and College Street and west of Lake St.; and,

   F. **South of College:** Properties south of College Street.

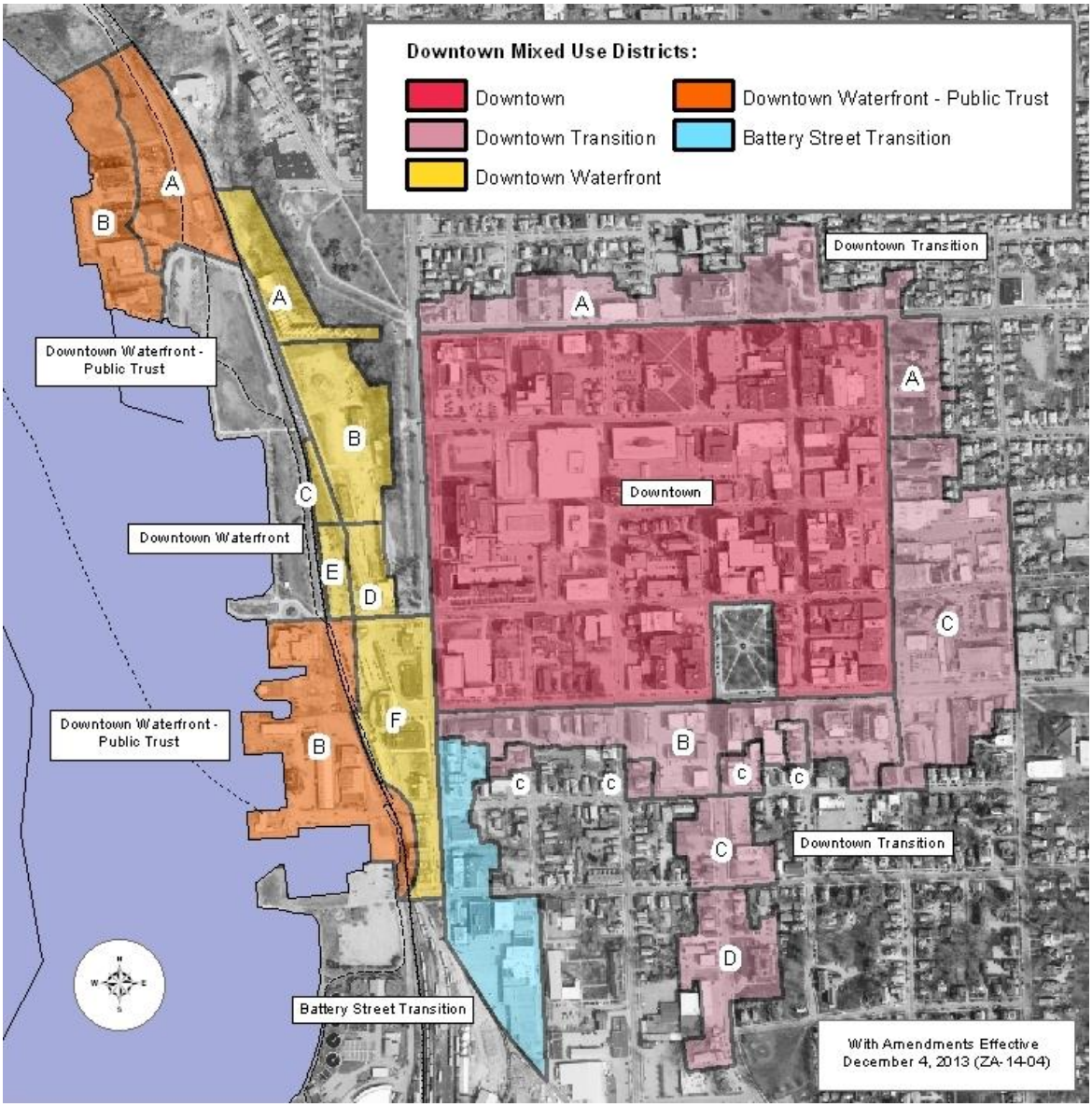
4. The **Downtown Waterfront – Public Trust District** (DW-PT) is intended to enhance and diversify commercial and residential development in the downtown waterfront area, and to increase access, utilization, and enjoyment of the lakeshore by the community. Strong emphasis is placed on enhanced public access to the lakeshore.

   For the purposes of regulating building height in such a way as to provide vistas of harbor activity within the breakwater area, and to preserve panoramic views along public street corridors of the mountains and lake, the Downtown Waterfront – Public Trust District is further sub-divided into the following areas as depicted in Map 4.4.1-1, and subject to the height limits as defined in Table 4.4.1-1 below:

A. **North of Pearl:** Properties beyond 200' of Lake Champlain north of the centerline of Pearl Street extended and west of railroad.

B. **Lakeshore:** Properties within 200' of Lake Champlain and west of the railroad.

5. The **Battery Street Transition District** (BS-T) is intended to provide a balance and continuity in the character and scale of development on both sides of Battery Street and provide a transition between the Downtown Waterfront and the nearby residential district.



Map 4.4.1-1 Downtown Mixed Use Districts

(b) Dimensional Standards and Density:

The density and intensity of development, dimensions of building lots, the heights of

buildings and their setbacks from property boundary lines, and the limits on lot coverage within the Downtown Mixed Use districts shall be governed by the standards as defined in Table 4.4.1-1 below:

Table 4.4.1-1 Dimensional Standards and Intensity

Districts	**Max. Intensity** (floor area ratio[1])	**Max. Lot Coverage**	**Min. Building Setbacks** (feet) Front[5]	Side[2, 4]	Rear[2, 4]	**Height**[3] (feet)
Downtown						
D	5.5 FAR	100%	Greater of 0' or 12' from curb	0	0	Min: 30 Max: 65
Church St. Marketplace	*Same as Downtown*					Min: 30 Max: 38 (see Sec, 4.4.1(d)(4)(B))
Downtown Transition District						
DT		100%	Greater of 0' or 12' from curb	0	0	
A. North of Buell St.	4 FAR	*Same as Downtown Transition*				Min: 30 Max: 45
B. South side of Main St.	5.5 FAR	*Same as Downtown Transition*				Min: 30 Max: 65
C. South of Buell St.	4 FAR	*Same as Downtown Transition*				Min: 30 Max: 45
D. South of Maple St.	2 FAR	*Same as Downtown Transition*				Min: 30 Max: 35
Downtown Waterfront						
DW		100%	Greater of 0' or 12' from curb	0	0	
A. North of Pearl - East	4 FAR	*Same as Downtown Waterfront*				Min: 30 Max: 45
B. Pearl to Bank - East	4 FAR	*Same as Downtown Waterfront*				Min: 30 Max: 45
C. Pearl to Bank - West	2 FAR	*Same as Downtown Waterfront*				Min: 30 Max: 35
D. Bank to College - East	3 FAR	*Same as Downtown Waterfront*				Min: 30 Max: 35
E. Bank to College - West	2 FAR	*Same as Downtown Waterfront*				Min: 30 Max: 35
F. South of College	2 FAR	*Same as Downtown Waterfront*				Min: 30 Max: 35
Downtown Waterfront – Public Trust						
A. North of Pearl - West	2 FAR	*Same as Downtown Waterfront*				Max: 35
B. Lakeshore[4]	2 FAR	*Same as Downtown Waterfront*				Max: 35
Battery Street Transition						
BST	3 FAR	100%	Greater of 0' or 12' from curb	0	0	Min: 30 Max: 35

1 Floor area ratio is defined and described in Art 5. Bonuses for additional FAR where available are described in section (d)7 below. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2 Structures shall be setback along any zoning district boundary line that abuts a residential zoning district pursuant to the requirements of (d)6 below.
3 Minimum building height shall be 30-feet and 3 stories. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height where available are described in section (d)7 below. Any portion of a building over 45-feet in height shall be setback from the front property line pursuant to the requirements of (d)4 below.
4 All structures shall be setback a minimum of 50-feet from the shoreline of Lake Champlain unless an encroachment is authorized under (d)5 below.
5 All structures shall be setback 12-feet from the curb on a public street except as otherwise allowed by the DRB for development along the following streets: both sides of Center Street; both sides of Pine Street between Cherry and Pearl Streets; the east side of Pine Street between Bank and Main Streets; the west side of Pine Street between College and Main Streets; and South Winooski Avenue between Bank and College Streets. The DRB may order a wider setback in any case under its review if it should determine that the application cannot be approved under applicable criteria without such additional setback.

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Downtown Mixed Use districts shall be as defined in Appendix A – Use Table.

Further limitations regarding permitted, or conditionally permitted uses within the Downtown Waterfront – Public Trust District are defined under (d)(2) below.

(d) District Specific Regulations

1. Use Restrictions

The following restrictions regarding the location and overall percentage of residential and nonresidential uses within the Downtown Mixed Use districts shall be as follows:

A. Ground Floor Residential Uses Restricted:

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted on the ground floor of any structure as follows:

i) in the Downtown (D) and Downtown Waterfront (DW) districts.

ii) any structure fronting on Pearl, So. Winooski and Main streets in the Downtown Transition (DT) district.

iii) any structure fronting on Battery Street in the Battery Street Transition (BST) district.

Historic buildings originally designed and constructed for residential use shall be exempt from these use restrictions.

2. Public Trust Restrictions:

These regulations set forth the permitted uses, identified by the Vermont General Assembly, associated with those parcels within the Downtown Waterfront – Public Trust District (DW-PT), and designated as "filled lands" along the

waterfront and which are subject to the public trust doctrine. This district includes all parcels situated on filled public trust lands on the Burlington waterfront north of the centerline of Maple Street extended as illustrated in Map 4.5.4-1.

It is further the intent of these provisions to ensure that public trust filled lands are available to the public on an open and nondiscriminatory basis.

Uses permitted in the public trust district are limited to those uses specifically authorized by the Vermont General Assembly by legislative act. These regulations are enacted under the provisions of §4411 as amended, Act No. 274 (1988, VT. Adj. Sess.), Act No. 53 (1991), Act No. 87 (1996, VT. Adj. Sess.) and Act No. 22 (1997).

A. Permitted Uses: North of Main Street

Only the following uses are permitted within that portion of the Downtown Waterfront – Public Trust District (DW-PT) located north of the centerline of Main Street extended:

(i) Governmental facilities: such as water and sewer plants; Coast Guard and naval facilities; roads that are accessory and transportation facilities accessory to the uses permitted under this section; or existing roads, and similarly sized extensions of those roads, that service the filled public trust lands and immediately adjacent lands;

(ii) Indoor or outdoor parks and recreation uses and facilities including parks and open space, marinas open to the public on a non-discriminatory basis, water dependent uses, boating and related services;

(iii) The arts, educational and cultural activities including theaters and museums;

(iv) Fresh water and other environmental research activities;

(v) Services related and accessory to the uses permitted under subsections (i) through (iv) of this section, including restaurants, snack bars, and retail uses and ancillary parking; only those uses that are subordinate and customarily incidental to the uses listed shall be considered as related and accessory services; and/or

(vi) Railroad, wharfing, and storage uses.

(vii) Publicly Accessible Restrooms. Any structure larger than 1000 sq. ft. in size, other than roads, parking lots, railroad tracks or recreation paths, shall include publicly accessible restrooms with appropriate exterior signs indicating their availability. The DRB may waive this provision if it so determines that adequate publicly accessible restrooms are available within close proximity.

B. Permitted Uses: Maple to Main Street

Only the following uses are permitted within that portion of the Downtown Waterfront – Public Trust District (DW-PT) located north of the centerline of Maple Street extended north to the centerline of Main Street extended:

(i) Facilities for transporting pedestrians and vehicles upon Lake Champlain by ferry and cruise vessels, including necessary docks, wharfs, maintenance facilities, administrative offices, gift shops, snack bars and related parking facilities.

(ii) Marine related retail facilities.

(iii) Restaurants.

(iv) Inns with public space, including restaurant, restroom and retail use. Restrooms in the inns shall be available to the public. The authorization granted under this subdivision is contingent upon the prior and continuing availability in Burlington Harbor of 45 transient dock slips which are appropriately marked for convenient access. The authorization granted under this subdivision is also contingent upon the availability, in perpetuity, of uninterrupted public access along the shoreline of Lake Champlain from the centerline of Maple Street extending north to the centerline of Main Street.

(v) Public Markets.

(vi) Publicly Accessible Restrooms. Any structure larger than 1000 sq. ft. in size, other than roads, parking lots, railroad tracks or recreation paths, shall include publicly accessible restrooms with appropriate exterior signs indicating their availability. The DRB may waive this provision if it so determines that adequate publicly accessible restrooms are available within close proximity.

C. Other Regulations in Effect

All other regulations of this ordinance shall apply to any uses permitted under this Article.

3. Facades and Setbacks on Side and Rear Property Lines

New buildings, or additions or improvements to existing buildings, placed on a side or rear property line where no setback is required may contain neither doors nor windows along such façade. Where the façade of an existing adjacent principal building is within 5 feet of a common property line and has either doors or windows, a setback of 10-feet shall be required for any new development up to the height of the abutting building.

4. Building Height Setbacks

A. Principal View Corridors:

Building heights and forms shall respect the principal view corridors, defined as the rights-of-way of Pearl, Cherry, College, and Main Streets, and preserve or enhance views to the lake and mountains. New buildings abutting College and Pearl Streets shall be stepped back above the fourth (4th) story or 45-feet, and new buildings abutting Main and Cherry Streets shall be stepped back above the fifth (5th) story or 55 feet, a distance equal to one-fourth (1/4) the width of the abutting right(s)-of-way from the front property line. In no case shall such upper stories be

setback more than forty (40) feet from the front property line. However, where a principal building with no setback abuts a side lot line, no setback shall be required up to the height of the abutting building.

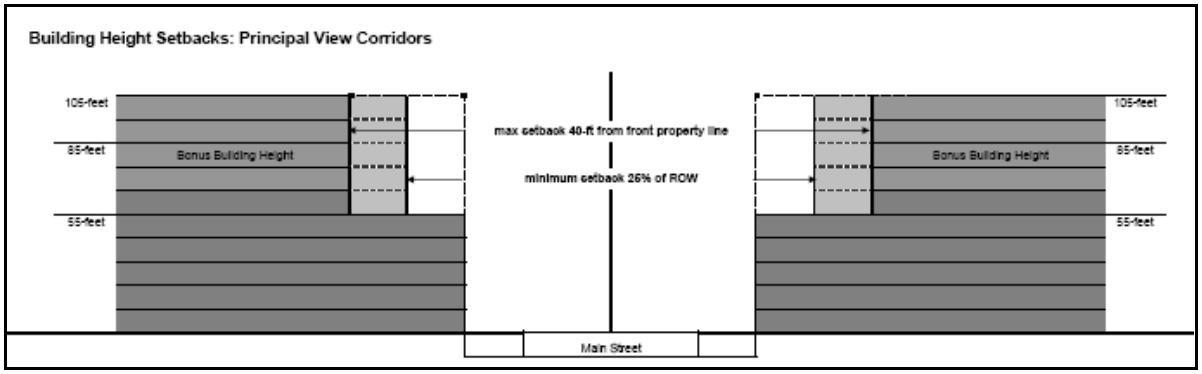


Figure 4.4.1-1 Principal View Corridor Upper Story Setback

B. Church Street Buildings:

For the purposes protecting the historic character and scale of buildings along the Church Street Marketplace, the maximum height of any building fronting on Church Street shall be limited to 38-feet. Any portion of a building within 100-feet from the centerline of Church Street shall be set-back a minimum of 16-feet for every 10-feet of additional building height above 38-feet.

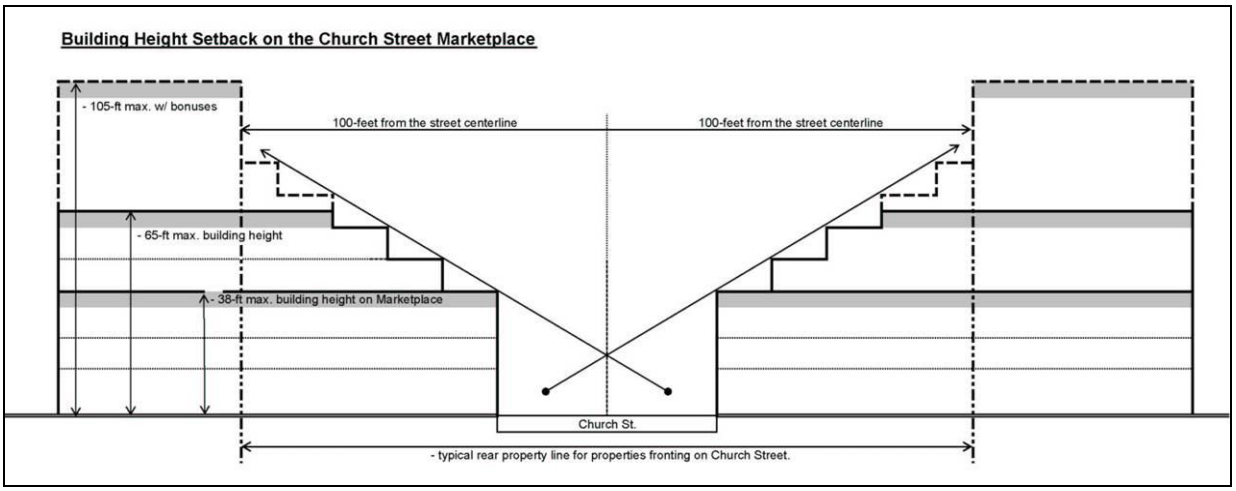


Figure 4.4.1-2 Measuring Height Limits for Church Street Buildings

C. Side Street Building Height:

For the purposes of maintaining the residential character and scale of buildings along the north side of King Street, on both sides of South Champlain Street, St. Paul Street, Pine Street and Church Street and the west side of South Winooski Ave. beyond 150 feet south of the center line of Main Street, as illustrated below,

the maximum height of any building fronting on these streets shall be limited to 65-feet, inclusive of any available height bonuses, within 85-feet of the northern edge of the public right-of-way.

Figure 4.4.1-3 Side Street Building Height Setback

5. Lake Champlain Waterfront Setback:

In order to ensure that public trust lands are available to the public on an open and nondiscriminatory basis and the public has continuous and direct access to the waters edge, all buildings shall be setback a minimum of 50-feet from the mean high water mark of Lake Champlain (100-feet above mean sea level) unless an encroachment is authorized below.

A. Additions to Existing Structures.

Where a structure, existing as of the effective date hereof, encroaches into the required waterfront setback, no additions to or replacement of that structure may further encroach into the required setback beyond the footprint of the existing building. Above the ground floor, additions to or replacement of that structure may encroach into the required setback no farther than the maximum encroachment of the original structure.

B. Averaging of Setbacks.

If the waterfront setback of principal structures on adjacent lots, existing as of the effective date hereof, within a distance of one hundred fifty (150) feet on either or both sides of a lot encroaches into the waterfront setback, the required setback may be reduced to the average setback of such structures as illustrated in Figure 4.4.1-4.

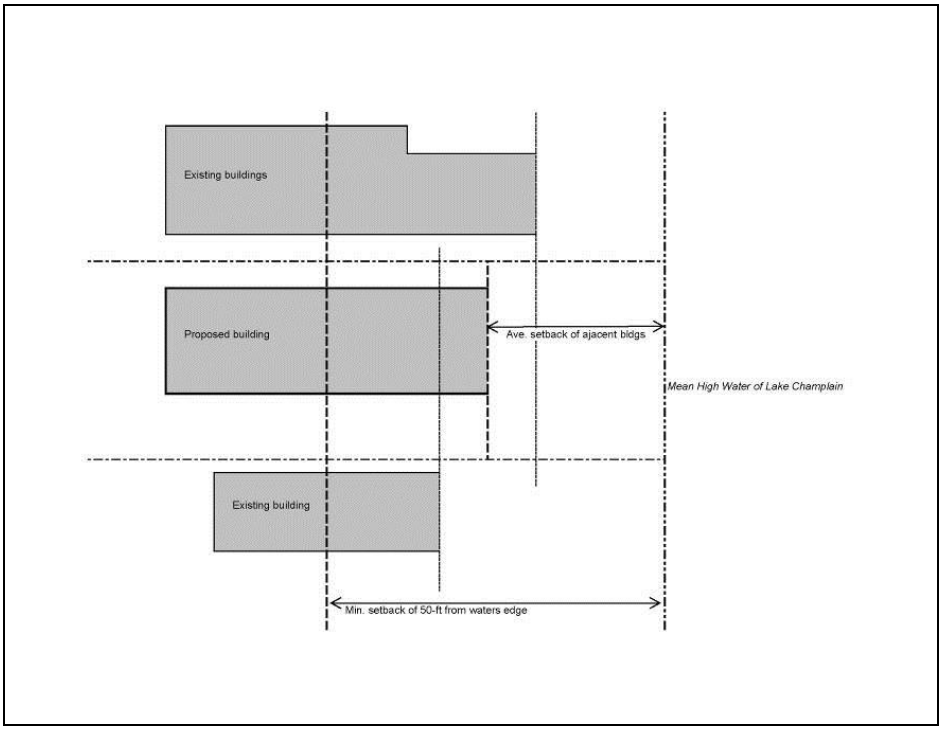


Figure 4.4.1-4 Waterfront Setback Encroachment

C. Permitted Encroachments.

The DRB may approve one or more of the following within the required waterfront setback: structures such as walkways, planters, benches, fountains, public art, sitting walls and other improvements which will enhance the pedestrian environment and enjoyment of the waterfront; and public marinas, public recreational piers, ferry docks, lake excursion facilities, and open-air markets, provided pedestrian circulation is not unreasonably impaired.

6. Residential District Setback

Structures shall be setback a minimum of 15-feet from any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by downtown and residential zones are exempt from this district boundary setback. (Exceptions to yard setback requirements can be found in (Sec. 5.2.5 (b))

Where a structure, legally existing before 1 January 2011, already encroaches into the

required residential district setback for the Residential High-Density District (RH), the DRB may permit, subject to design review, additions to the pre-existing encroaching structure provided:

- the addition does not project farther into the residential district setback towards the RH district boundary than the pre-existing encroachment. In no event shall the encroachment of the addition be less than 5 feet from the boundary line; and,
- the height of any addition does not exceed the height of the pre-existing encroachment or 35-feet whichever is less.

7. Development Bonuses/Additional Allowances

The following exceptions to the allowable base building height and FAR as provided in Table 4.4.1-1 above may be approved in any combination subject to the maximum limits set forth in Table 4.4.1-2 below at the discretion of the DRB. The additional FAR allowed shall correspond to the proportion of the additional building height granted to the maximum available.

A. Inclusionary Housing:

Inclusionary housing units shall be provided, with applicable additional coverage and density exceptions, in accordance with the provisions of Article 9, Part 1. An additional allowance in all Downtown Mixed Use districts may be permitted at the discretion of the DRB for the provision of additional onsite inclusionary housing units.

An additional 10-feet of building height, and corresponding FAR, may be permitted for each additional 5% inclusionary housing units provided in excess of the requirements of Article 9, Part 1 up to a maximum of an additional 20-feet. The total gross floor area dedicated to the additional inclusionary housing shall be equivalent to the gross floor area resulting from the additional allowance.

B. Senior Housing:

A bonus in excess of the base height and FAR allowance in all Downtown Mixed Use districts may be permitted at the discretion of the DRB for the provision of onsite senior housing.

An additional 10-feet of building height, and corresponding FAR, may be permitted where no less than twenty-five per cent (25%) of the total number of units in the project are reserved for low-moderate income households for seniors as defined by state or federal guidelines, including no less than ten percent (10%) reserved for low-income households. The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.

C. Public Parking:

A bonus in excess of the base height and FAR allowance in all Downtown Mixed Use districts may be permitted at the discretion of the DRB for the provision of public parking as follows:

(i) 10-feet of additional building height and corresponding FAR may be permitted where all onsite parking, subject to a minimum of 40 parking spaces, is made available to the general public at all hours of holidays; between the hours of 5:00 pm and 6:00 am on weekdays, and from 5:00 pm on Friday until 6:00 am on the following Monday. The DRB may make minor modifications to these hours as may be necessary to address the unique needs of the proposed development.

(ii) 10-feet of additional building height and corresponding FAR may also be permitted, independent of subsection (i) above, where no less than 25 parking spaces or an additional ten percent (10%) above the minimum spaces required pursuant to Sec. 8.1.8, whichever is greater, are made available to the general public at all times.

(iii) The parking referenced in subsection (ii) above may be located anywhere within the same zoning district in which the proposed project is to be located.

(iv) Before authorizing additional height under this section the DRB must specifically require all of the following conditions, together with any other conditions it determines to be necessary or appropriate:

- In no event shall the application of this bonus provision provide for more than 20-feet of building height above the base height permitted in Table 4.4.1-1;
- All spaces made available to the general public shall be those most convenient to the public street, and there must be adequate signage indicating the availability of such spaces to the public and the location of such spaces;
- Where a fee is charged, such fee shall be not more than the prevailing market rate for similar publicly and privately owned parking in the City; and,
- A legally binding agreement, in a form and substance suitable to the city attorney, is executed to guarantee public access to the parking spaces provided.

D. Job Attraction and Expansion Bonus:

A bonus in excess of the base height and FAR allowance in all downtown mixed use districts may be permitted at the discretion of the DRB for the construction or rehabilitation of buildings for non-residential development that encourages and supports the expansion and retention of Burlington's commercial employment base as follows:

(i) 10 additional feet of building height and corresponding FAR may be permitted for achieving a mixture of at least 75% non-residential and no more than 25% residential utilization of the gross floor area of the development site.

(ii) Another 10 additional feet of building height and corresponding FAR may be permitted for achieving 100% non-residential utilization, except that, as

specified by Sec. 4.4.1.(d).1.B., no more than 75% of the gross floor area of any structure in the Downtown Waterfront district may be occupied by office use.

In order to be entitled to such additional height, the DRB must also affirmatively find that at least one of the two following criteria set forth below will be met:

- such additional height allowance is necessary to accommodate the creation of additional jobs in Burlington which will not be created in the City without such allowance; or
- such additional height allowance is necessary to preserve existing employment in Burlington which will be lost to the City without such allowance.

E. Green Buildings:

This bonus provision expired on January 7, 2013.

F. Public Art:

An additional 10 feet of building height and corresponding FAR may be permitted at the discretion of the DRB for the construction or rehabilitation of buildings that incorporates a commitment to public art.

(i) In order to qualify for the public art bonus, projects must:

1) include artworks that visually instigate pedestrian interest by reinventing the design of everyday functional elements (i.e. lighting, benches, pavement/hardscape), creating visual or thematic links to other artworks or design projects within 3 blocks, visually telling a story, and/or integrating texture, color, light, transparency or movement/activity into the design.

2) commit no less than two (2%) percent of their total construction costs, or $40,000, whichever is greater, to the public art features per each 10 feet of height or 1.0 FAR allowance up to a maximum of 20 feet or 2.0 FAR. For the purposes of this bonus, total construction costs mean the sum of all construction costs shown on all building permits associated with the project. For projects involving the expansion and/or rehabilitation of buildings, total construction costs shall mean the combined costs of new construction and the costs of improvements to the property as shown on all building permits associated with the project.

3) attend a Pre-Application Conference with the City Arts Public Art Committee (CAPAC), where they shall present an Art Plan for CAPAC review. The Art Plan must:

a. Present a budget detailing the proposed expenditure of funds on the project's Public Art features relative to total construction costs.

b. Describe in detail the applicant's process for selection of artist(s) and artwork(s) and how that process will foster collaboration among artist(s) and other building design team members.

c. Identify the intended site(s), media, and materials of artwork(s).

d. Describe the qualifying artwork, including artist concept drawings.

e. Detail the schedule for the selection, fabrication and installation of the artwork.

No Pre-Application conference with CAPAC shall be held until the applicant has submitted a fee in the full amount determined by City Arts as part of that department's customary fee-setting process.

4) receive formal approval of the Art Plan by CAPAC, CAPAC's formal approval of the Art Plan shall be conveyed in a memo to the DRB, including any and all Public Art Conditions of Approval. The Public Art Conditions of Approval shall be accepted by the applicant and recorded in a Covenant between the applicant and the City.

(ii) The installation of all Public Art features required as Public Art Conditions of Approval shall be complete before a Certificate of Occupancy is granted. Prior to receiving a Certificate of Occupancy, the applicant must submit a final written report to CAPAC, including visual documentation (slide, photos, etc.) of all Public Art features and a detailed statement of project expenses. Copies of contracts with art consultant(s) and artist(s) must be attached. No Certificate of Occupancy shall be granted without the issuance of a Final Approval Notice from CAPAC.

If the CAPAC determines it impossible for the applicant to complete installation of all required Public Art features prior to granting the Certificate of Occupancy, a Conditional CO may be granted. In such an event, the Conditional Certificate of Occupancy shall be granted only when the applicant posts a performance bond in the full amount dedicated for the Public Art. In addition, CAPAC must approve, in writing to the Building Inspector, a timeline for completion of the Public Art project.

(iii) The following City of Burlington Public Art Standards shall guide the CAPAC's and DRB's review of all applications seeking to utilize the Public Art Bonus. These standards are basic principles that help clarify the nature of Public Art as it relates to the comprehensive development ordinance of the City of Burlington. They are a series of concepts about reviewing Public Art Bonus proposals, and about designing new, or maintaining, repairing, or replacing existing Public Art Bonus eligible or permitted features through the design review process.

1) Eligible Art Expenditures

Eligible art expenditures include: The work of art itself; design fees for artists invited to submit proposals; selected artist(s)' operating costs; travel related to the integration of the art with the project; transportation of the work to the site; installation of the artwork; identification plaques and labels, frames, mats, mountings, anchors, containments, pedestals, or materials necessary for the installation, location or security of the artwork(s); photographs of completed works.

2) Ineligible Art Expenditures

Ineligible art expenditures include: Art exhibitions and educational activities; architect's fees; land costs; utility fee associated with electrical, water, or mechanical services used to activate the works of art; and, in connection with the works of art, registration, dedication, unveiling, security and publicity after selection.

3) Location of Art

Maximum visibility of the art is of primary concern. Art must be sited on the exterior of the building and/or at locations(s) clearly visible and freely accessible by the public from the sidewalk during daylight hours. The applicant will guarantee public access to the artwork(s). The art is a permanent part of the development and must remain in place for the life of the building. Works may be portable, as well as fixed, as long as the art is always at or adjacent to the site and accessible to the public.

4) Maintenance

Art must be maintained and repaired as necessary in accordance with accepted curatorial standards set forth in the Public Art Conditions of Approval by CAPAC. Stolen or vandalized art must be replaced or repaired as close as possible to its original form. So far as practical, in the event repair of a work is required, the responsible artist(s) shall be notified and given the opportunity to complete the repair for a reasonable fee. If the original artist is not available, a qualified professional, such as an art conservator, shall conduct any necessary repairs. Installation, future preservation, maintenance, and replacement if necessary, of the public art provided within this bonus program, or replacement Public Art features that have undergone the same process outlined in this ordinance, is assured for, through the covenant with the City, for as long as the building or buildings should stand.

The City Council may supplement this provision with regulations implanting it which may promulgate from time to time by Resolution. Such regulations must be consistent with the requirement of this provision.

G. Incorporation of Public Amenities:

Additional amenities available for public use on a regular and sustained basis such as, but not limited to open/garden space, internal or external walkways, rooftop terraces, extra wide sidewalks and additional setbacks which, in combination with all other specified conditions, render the benefits being provided to the public commensurate to the private benefits granted shall also be required by the DRB in connection with the granting of any of the bonuses referenced in subsections C-F above inclusive.

H. Maximum Bonus:

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

Table 4.4.1-2: Maximum FAR and Building Heights with Bonuses

	Maximum FAR	Maximum Height
Downtown	8.5 FAR	105 feet
Downtown – Transition:		
A. D-T North of Buell	5.0 FAR	55 feet
B. D-T Main St. South	8.5 FAR	105 feet
C. D-T South of Buell	5.5 FAR	65 feet
D. D-T South of Maple	3.0 FAR	45 feet
Downtown Waterfront:		
A. North of Pearl - East	5.5 FAR	65 feet
B. Pearl to Bank - East	5.5 FAR	65 feet
C. Pearl to Bank - West	3.0 FAR	35 feet
D. Bank to College - East	5.0 FAR	55 feet
E. Bank to College - West	3.0 FAR	35 feet
F. South of College	3.0 FAR	35 feet
Downtown Waterfront – Public Trust:		
A. North of Pearl - West	3.0 FAR	35 feet
B. Lakeshore	3.0 FAR	35 feet
Battery Street Transition	4.5 FAR	55 feet

Sec. 4.4.2 Neighborhood Mixed Use Districts

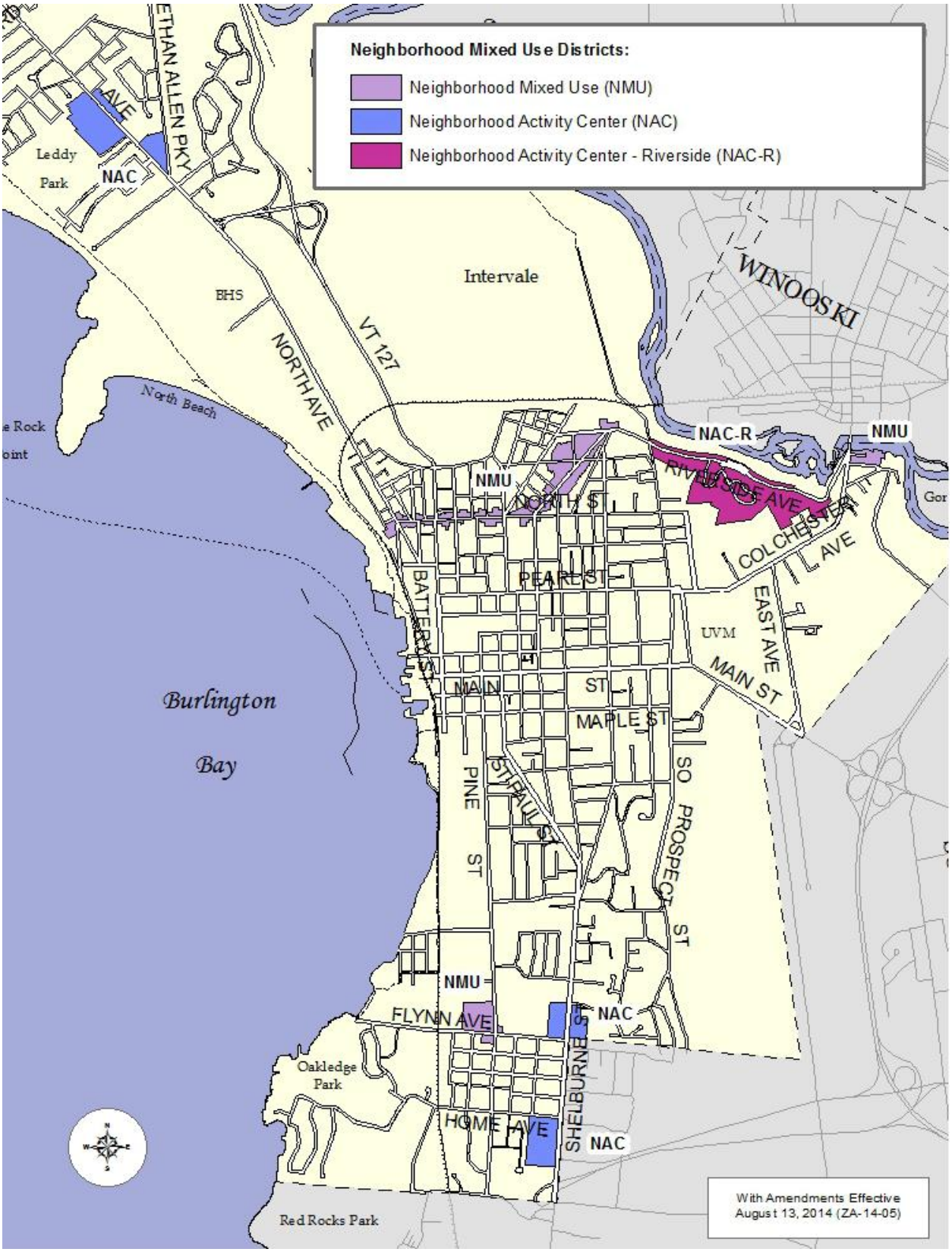
(a) Purpose:

The Neighborhood Mixed Use districts promote development that combines non-residential and residential uses on a single site. These zones allow an increased intensity of development than would typically be found in the surrounding residential areas, and provides neighborhood oriented goods and services and employment opportunities within walking distance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new commercial and residential opportunities in the City. The emphasis of nonresidential uses should primarily be oriented to serving the needs of the surrounding residential neighborhoods and other neighborhood commercial uses.

Development is intended to consist primarily of businesses on the ground floor with housing on upper stories. Development is intended to be pedestrian-oriented with buildings oriented to the sidewalk, especially at corners. Parking is intended to be hidden from the street, since their appearance is generally out of character with the surrounding residential development and the desired orientation of the buildings.

The 3 Neighborhood Mixed Use districts as illustrated in Map 4.4.2-1 are further described as follows:

1. The **Neighborhood Activity Centers** (NAC) are intended to provide convenient neighborhood and city wide-oriented goods and services and employment opportunities within walking or biking distance of many of the city's residential areas;
2. The **Neighborhood Mixed Use** (NMU) district is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns within the city's older neighborhoods. Uses are intended to provide neighborhood oriented goods and services and employment opportunities within walking or biking distance of residential neighborhoods; and,
3. The **NAC – Riverside** (NAC-R) is intended to allow commercial development in areas already predominantly built along this important travel corridor while encouraging emerging mixed-use development. The zone allows a full range of retail and service businesses with a local or regional market orientation. Light industrial uses are allowed but limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be placed behind or to the side of principle buildings.


Neighborhood Mixed Use Districts:
Neighborhood Mixed Use (NMU)
Neighborhood Activity Center (NAC)
Neighborhood Activity Center - Riverside (NAC-R)
Leddy Park
NAC
ETHAN ALLEN PKY
AVE
BHS
NORTH AVE
VT 127
Intervale
WINOOSKI
North Beach
Burlington Bay
NAC-R
NMU
RIVERSIDE AVE
NORTH ST
PEARL ST
COLCHESTER AVE
EAST AVE
UVM
MAIN ST
BATTERY ST
MAPLE ST
PINE ST
ST PAUL ST
SO PROSPECT ST
FLYNN AVE
SHELBURNE ST
HOME AVE
Oakledge Park
Red Rocks Park
With Amendments Effective August 13, 2014 (ZA-14-05)

Map 4.4.2-1 Neighborhood Mixed Use Districts

(b) Dimensional Standards and Density:

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

Table 4.4.2 -1 Dimensional Standards and Density

Districts	**Max. Intensity** (floor area ratio[1])	**Max. Lot Coverage**	**Minimum Building Setbacks** (feet) Front[4]	Side[2]	Rear[2]	**Height** (feet)
NAC	2.0 FAR	80%[5]	0	0	0	Max: 35
NMU	2.0 FAR	80%	0[6]	0	0	Min: 20[3] Max: 35
NAC-Riverside	2.0 FAR	80%	0	0	0	Min: 20[3] Max: 35

1. Floor area ratio is defined in Art. 13 and described in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2. Structures shall be setback a minimum of 15-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by neighborhood mixed use and residential zones are exempt from this district boundary setback.
3. Minimum building height shall be 20-feet and 2 story's. Measurement of and exceptions to height standards are found in Art 5.Bonuses for additional building height are described in section (d)3 below.
4. All structures shall be setback 12-feet from the curb on a public street.
5. Exceptions to minimum lot coverage are provided in (d)2.
6. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Neighborhood Mixed Use districts shall be as defined in Appendix A – Use Table.

(d) District Specific Regulations:

1. Ground Floor Residential Uses Restricted

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted within 25-feet of a public street right-of-way along the street-level frontage in the NAC District.

2. Exception to Maximum Lot Coverage in NAC District

The following exceptions to the maximum lot coverage standards for the NAC District of Table 4.4.2 -1 may be provided as follows:

A. Landscaping

Developments that provide landscaping within a parking lot may increase lot coverage above the allowable 80% maximum up to a lot coverage maximum of 85%. This additional lot coverage is limited to twice the landscaping area within a parking lot for each landscaped area of at least 125 square feet with a minimum width of 8 feet excluding curbs, and that include significant shade trees whose mature height is at least 35 feet. If more than two such trees are planted, they shall be 30 feet on center, linear.

In calculating lot coverage, sidewalks are not to be included that are shaded with significant shade trees whose mature height is at least 35 feet and are planted 30 feet on center, linear. A substantial tree must be at least 3 inches in caliper and planted in accordance with Section 11 of the city's "*Burlington Street Tree Planting Plan*" design and planting recommendations.

B. Housing

Developments that provide housing in addition to non-residential uses may increase lot coverage above the allowable 80% maximum by allowing an additional two square feet of lot coverage for every square foot of housing, up to a lot coverage maximum of 90%.

3. Development Bonuses/Additional Allowances

The following exceptions to maximum allowable base building height and FAR in Table 4.4.2-1 above may be approved in any combination subject to the maximum limits set forth in Table 4.4.2-2 below at the discretion of the DRB. The additional FAR allowed shall correspond to the proportion of the additional building height granted to the maximum available.

A. Inclusionary Housing:

Inclusionary housing units shall be provided, with applicable additional coverage and density exceptions, in accordance with the provisions of Article 9, Part 1. An additional allowance in the NAC and NAC-Riverside districts may be permitted at the discretion of the DRB for the provision of additional onsite inclusionary housing units.

A maximum of an additional 10-feet of building height, and corresponding FAR, may be permitted at the discretion of the DRB for an additional 5% inclusionary housing units provided onsite in excess of the requirements of Article 9, Part 1. The total gross floor area dedicated to the additional inclusionary housing shall be equivalent to the gross floor area resulting from the additional allowance.

B. Senior Housing:

A maximum of an additional 10-feet of building height, and corresponding FAR, may be permitted at the discretion of the DRB in the NAC and NAC-Riverside

districts where no less than twenty-five per cent (25%) of the total number of onsite units are reserved for low-moderate income senior households as defined by state or federal guidelines, including no less than ten percent (10%) reserved for low-income households. The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.

C. Maximum Bonus:

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

Table 4.4.2 -2: Maximum FAR and Building Heights with Bonuses

	Maximum FAR	Maximum Height
NAC	3.0 FAR	45 feet
NAC-Riverside	3.0 FAR	45 feet

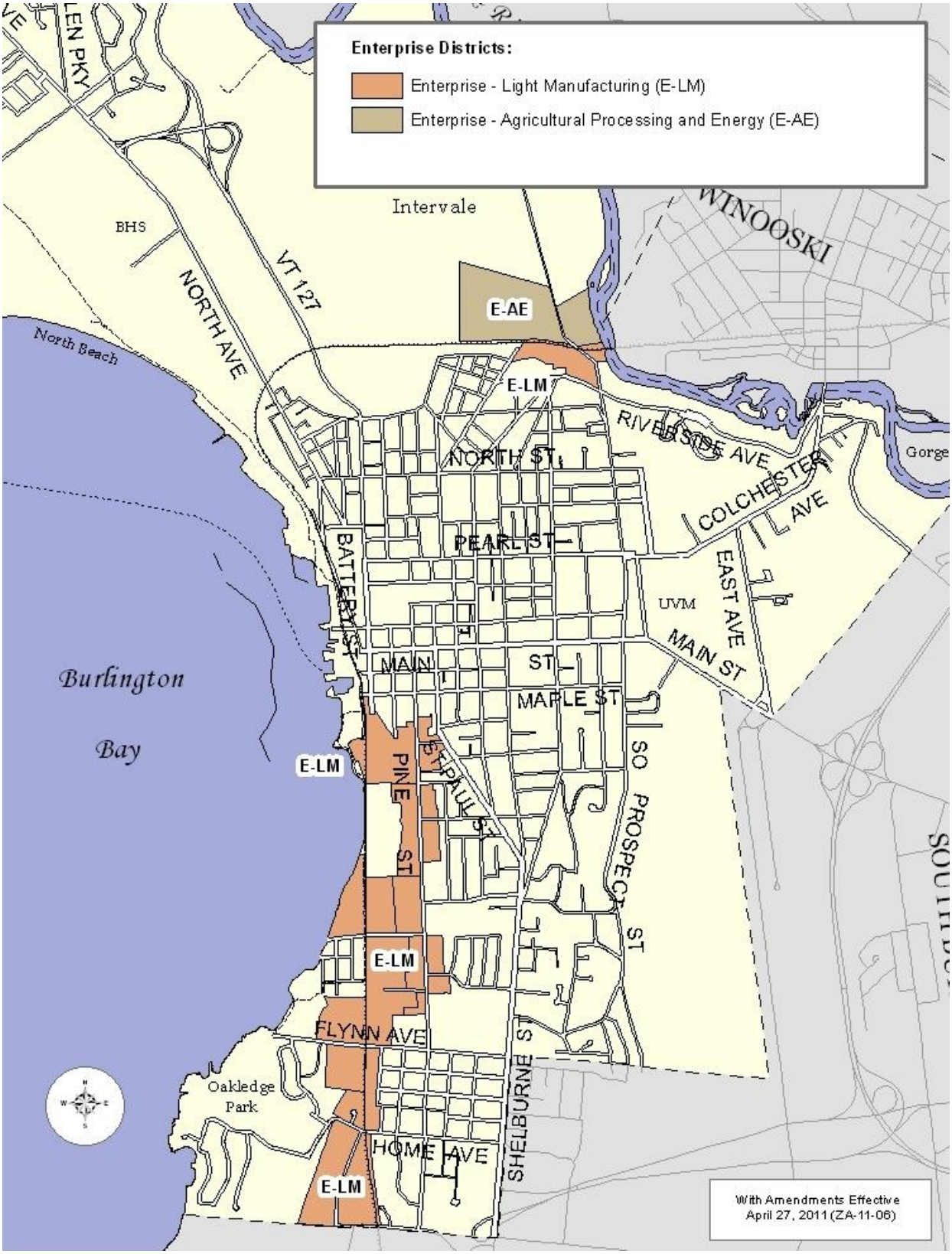
Sec. 4.4.3 Enterprise Districts

(a) Purpose:

The 2 Enterprise districts as illustrated in Map 4.4.3-1 are described as follows:

1. The **Light Manufacturing** (E-LM) district is the primary commercial/industrial center of Burlington, and is intended primarily to accommodate enterprises engaged in the manufacturing, processing, distribution, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment without potential conflicts from interspersed residential uses. Other accessory commercial uses are allowed to support a wide range of services and employment opportunities. This district is intended to ensure that sufficient land area is appropriately designated within the city to provide an adequate and diversified economic base that will facilitate high-density job creation and retention. This district is primarily intended to provide for industrial uses suitable for location in areas of proximity to residential development. Development is intended to respect interspersed historic industrial buildings, and reflect the industrial aesthetic of the district's past. Parking is intended to be hidden within, behind, or to the side of structures.
2. The **Agricultural Processing and Energy** (E-AE) district is intended primarily to accommodate enterprises engaged in the manufacturing, processing, and distribution of agricultural goods and products, and those related to the generation of energy from renewable sources. This district is intended to serve as a community of manufacturing and service businesses that work together to improve their environmental and economic performance. By working together they will reduce the use of raw materials, reduce outputs of waste, conserve energy and water resources, and reduce transportation requirements. Businesses with this district are encouraged to build linkages between themselves to coordinate the flows of energy and materials for maximum efficiency. Development should be designed with close attention paid to the principles of sustainable development and green building technologies. Parking is

intended to be hidden within, behind, or to the side of primary structures.



Map 4.4.3-1 Enterprise Districts

(b) Dimensional Standards and Density

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

Table 4.4.3 -1 Dimensional Standards and Density

Districts	**Max. Intensity** (floor area ratio[1])	**Max. Lot Coverage**[1]	**Minimum Building Setbacks**[1] (feet) Front	Side	Rear[3]	**Max. Height**[1] (feet)
Light Manufacturing	2.0 FAR	80%	5 min	0[2]	10%[2]	45’
Agricultural Processing and Energy	0.75 FAR	60%	10 min	10 min	10 min	45’

1 – Floor area ratio is further described in Art 5. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2 – Structures shall be setback a minimum of 25-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by enterprise and residential zones are exempt from this district boundary setback.
3 – Percentage of the lot depth.

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Enterprise districts shall be as defined in Appendix A – Use Table.

(d) District Specific Regulations:

1. Convenience Stores.

The following shall apply to the review and approval of convenience stores in the E-LM district in addition to the provisions for the review of Conditional Uses under Art. 3 and General Regulations for convenience stores under Art 5:

A. Convenience stores in the E-LM district shall only be allowed on properties fronting on Pine Street, and must be sited at least 2,000 linear feet, measured lot line to lot line, from any other convenience store in the E-LM district;

B. A convenience store shall not contain more than 5,000 square feet of gross floor area;

C. If located at a street intersection, the nearest edge of any curb cut shall be located as far as possible from any intersections with a minimum distance of 50 feet from an intersection as measured from the corner of and along the lot line of the site;

D. Approval shall be granted only if, in addition to the general conditional use standards listed in Sec. 3.5.6, the DRB determines that a proliferation of convenience stores is not threatening the primary intent of the E-LM district for industrial purposes, as stated in Section 4.4.3 (a) 1; and,

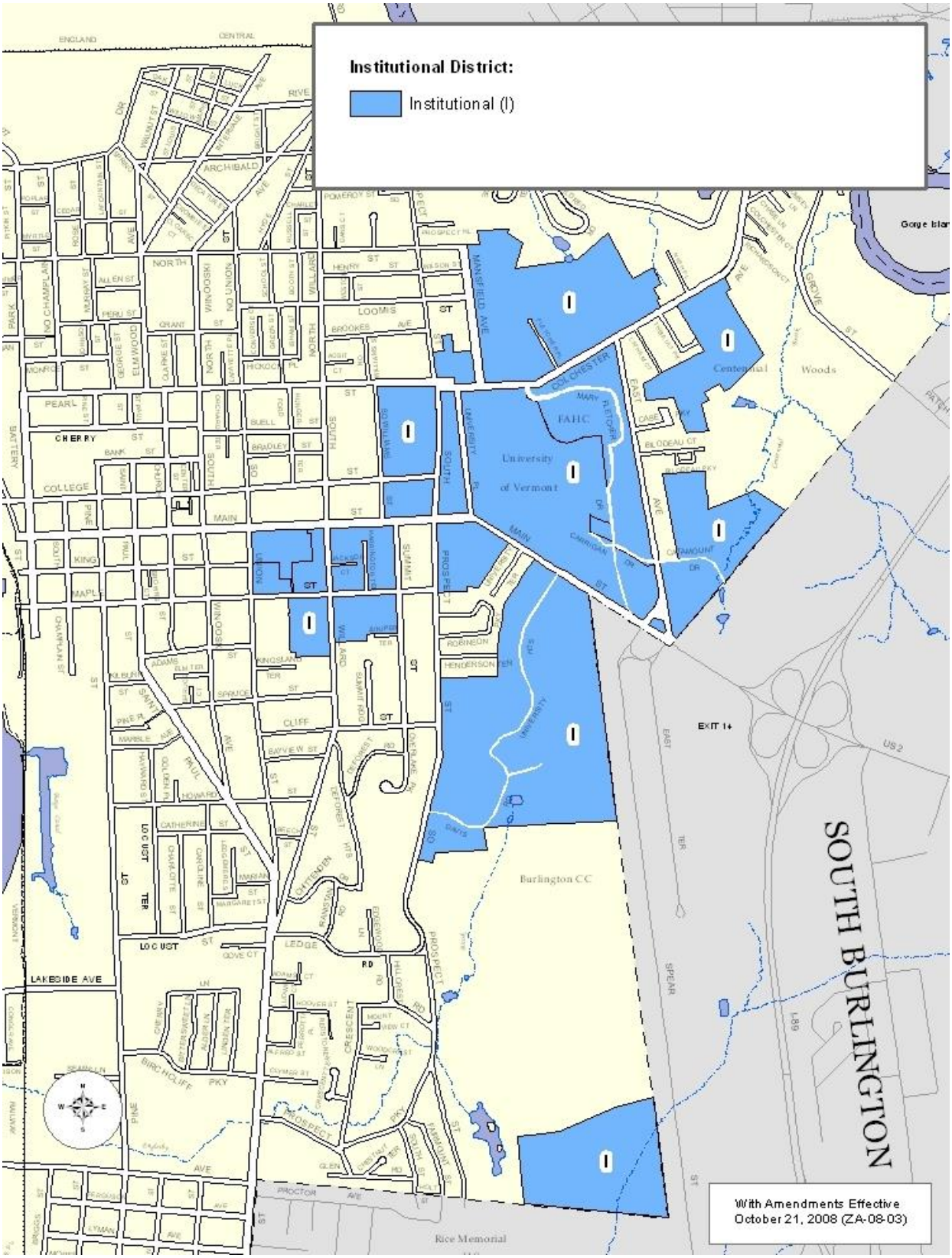
E. Convenience stores that obtain a conditional use permit within the E-LM District may include gasoline pumps provided the total square footage occupied by pumps, pump islands and vehicular space(s) at a pump filling station is the lesser of 1,850 s.f. or 50% of the gross floor area of the enclosed convenience store.

Sec. 4.4.4 Institutional District

(a) Purpose:

The **Institutional District (I)** as illustrated in Map 4.4.4-1 allows for an increased development scale and intensity than would typically be found in the adjacent residential districts to support continued growth and flexibility of the city's major educational and health care institutions within their respective institutional missions. New development is intended to be sensitive the historic development pattern of the existing campuses as well as the surrounding residential neighborhoods.

The district is intended to support broad range of related uses reflecting the resident institution's role as regional educational, health care, cultural and research centers. Buildings should be designed with a high level of architectural detailing to provide visual interest and create enjoyable, human-scale spaces. Sensitive transitions between adjacent lower scale residential areas and larger scale institutional development should be provided. Sites should be designed to be pedestrian friendly and encourage walking between buildings. Where parking is provided onsite, it is intended to be hidden behind, to the side, within, or underneath structures.



Map 4.4.4-1 Institutional Districts

(b) Dimensional Standards and Density:

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

Table 4.4.4 -1 Dimensional Standards and Density

Districts	**Max. Intensity**	**Max. Lot Coverage**[1]	**Building Setbacks**[1] (feet) Front[2]	Side[3]	Rear[3]	**Max. Height**[1] (feet)
Institutional[4]	20 du/ac (24 du/acre with inclusionary req.)	40% (48% with inclusionary req.)	Minimum: 15-feet	10% of lot width Min: 5-ft Max required: 20-feet	25% of lot depth Min: 20-feet Max required: 75-feet	35’

1 –Measurement of and exceptions to coverage, setback and height standards are found in Art 5.
2 –The calculation of the front yard setback shall be a percentage of lot width and depth or as defined and described in Art 5.
3 – Maximum allowable lot coverage, setbacks and building height in portions of this district may be modified by the provisions of the Institutional Core Campus Overlays in Sec. 4.5.2

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Institutional district shall be as defined in Appendix A – Use Table.

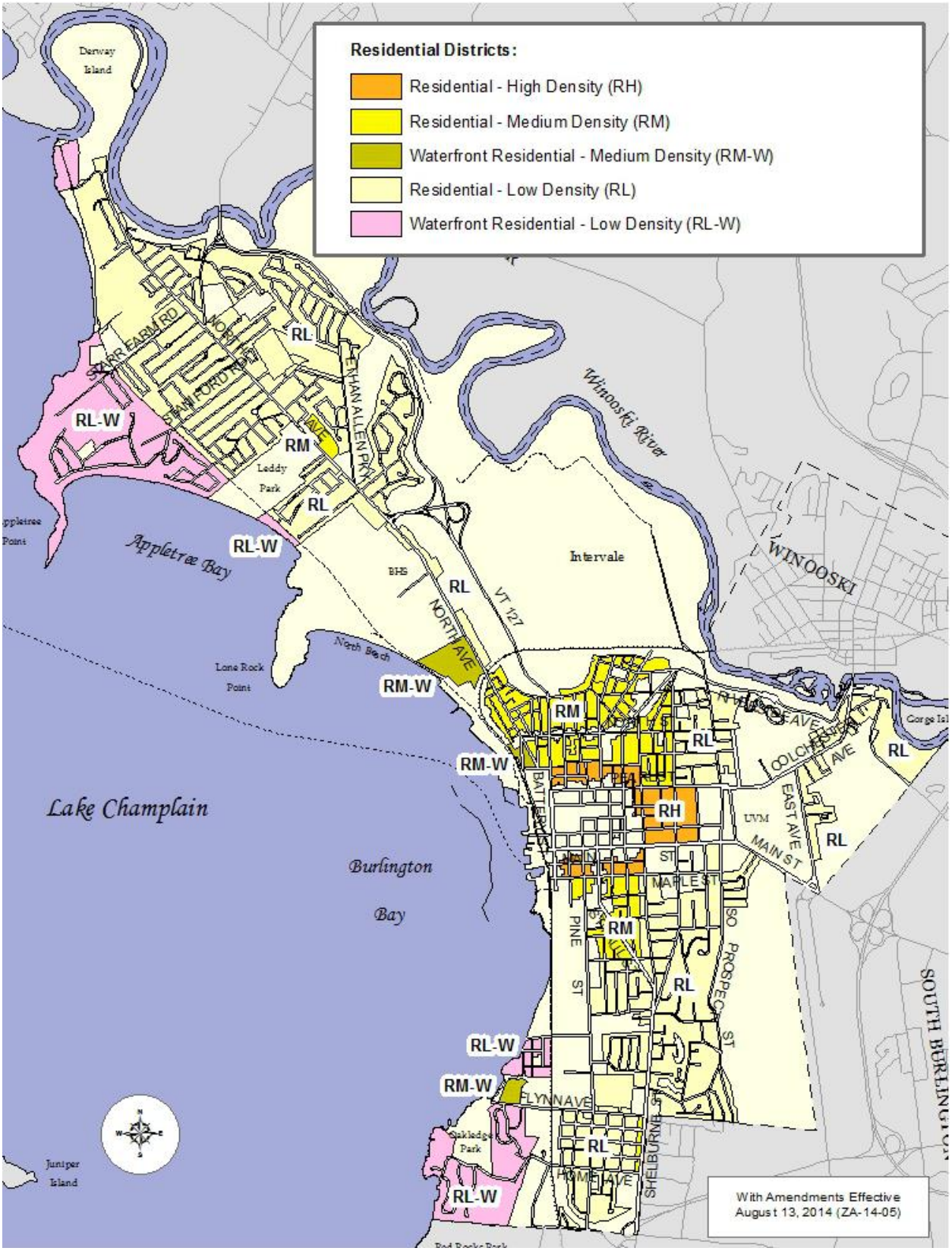
Sec. 4.4.5 Residential Districts

(a) Purpose:

The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and historic development patterns are reinforced. Parking shall be placed either behind, within, or to the side of structures, as is consistent with the district and/or the neighborhood. Building facades designed for parking shall be secondary to the residential aspect of a structure.

The 5 Residential districts as illustrated in Map 4.4.5-1 are further described as follows:

1. The **Residential Low Density (RL)** district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history.
2. The **Waterfront Residential Low Density (RL-W)** district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history. This district is distinguished from the Residential Low Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.
3. The **Residential Medium Density (RM))** district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments.
4. The **Waterfront Residential Medium Density (RM-W)** district is intended primarily for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments. This district is distinguished from the Residential Medium Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.
5. The **Residential High Density (RH)** district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings placed close together. Parking is intended to be hidden either behind or underneath structures.



Map 4.4.5-1 Residential Zoning Districts

(b) Dimensional Standards and Density

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

Table 4.4.5-1: Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W[2]

	Lot Frontage[1]		**Lot Size**	
Use	*(linear feet)*		*(square feet)*	
	RL,WRL	**RM,WRM**	**RL[3]**	**RM**
Single detached dwelling	**Min:** 60’	**Min:** 30’	**Min:** 6,000	NA
Duplex and above			**Min:** 10,000	

1. The DRB may adjust the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street.
2. There are no minimum lot size or frontage requirements in the RH District.
3. Exception: Larger minimum lot size in RL and WRL larger lot overlay district; refer to Section 4.5.5 & Table 5.5-1.

Table 4.4.5-2: Base Residential Density

District	**Maximum dwelling units per acre[1]**
Low Density: RL, RL-W	7 units/acre
Medium Density: RM, RM-W	20 units/acre
High Density: RH	40 units/acre

Inclusive of new streets but exclusive of existing streets, and without bonuses or any Inclusionary Zoning allowances.

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]	**Side[3]**	**Rear**	**Waterfront**	
RL; WRL	35%	**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**:	**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

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]	Side[3]	Rear	Waterfront	
			20-feet			
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-feet	**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-feet	**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 lots on both sides **Max required**: 20-feet	**Min:** 25% of lot depth but in no event less than 20' **Max required**: 75-feet	NA	35-feet

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

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]	Side[3]	Rear	Waterfront	

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.

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Residential districts shall be as defined in Appendix A – Use Table.

(d) District Specific Regulations:

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

1. Setbacks

A. Encroachment for Residential Driveways

For purposes of allowing existing, developed, nonconforming lots containing single family homes to create a driveway and provide a maximum of two tandem parking spaces, driveways may encroach into a required sideyard setback up to the property line with DRB approval.

Such approval shall be based on demonstrated necessity on the part of the property owner as well as unique physical circumstances of the lot, conditional use criteria and findings that there shall be no undue adverse impact on all of the following items of concern: drainage, safety, protection of neighboring side yard, light and air. In addition, the lot shall be found to have dimensions that are smaller than the existing standards for lot size or frontage. The maximum relief from the 5' minimum setback shall be the minimum necessary for the purposes of creating such a driveway and parking spaces and shall be allowed only after a finding that driveway and parking configuration cannot be otherwise located on the lot. With such approval by the DRB, the lot shall not be considered nonconforming due to the decreased setback for the creation of the driveway and parking spaces.

B. Encroachment into the Waterfront Setback.

The following exceptions to the required waterfront setback for Lake Champlain and the Winooski River established under Sec. 4.5.4:

(i) **Replacement of Existing Structure.**

Replacement of a conforming principle structure existing as of the effective date hereof, may encroach into the required setback provided the replacement does not increase the area or extent of the encroachment more than the existing structure.

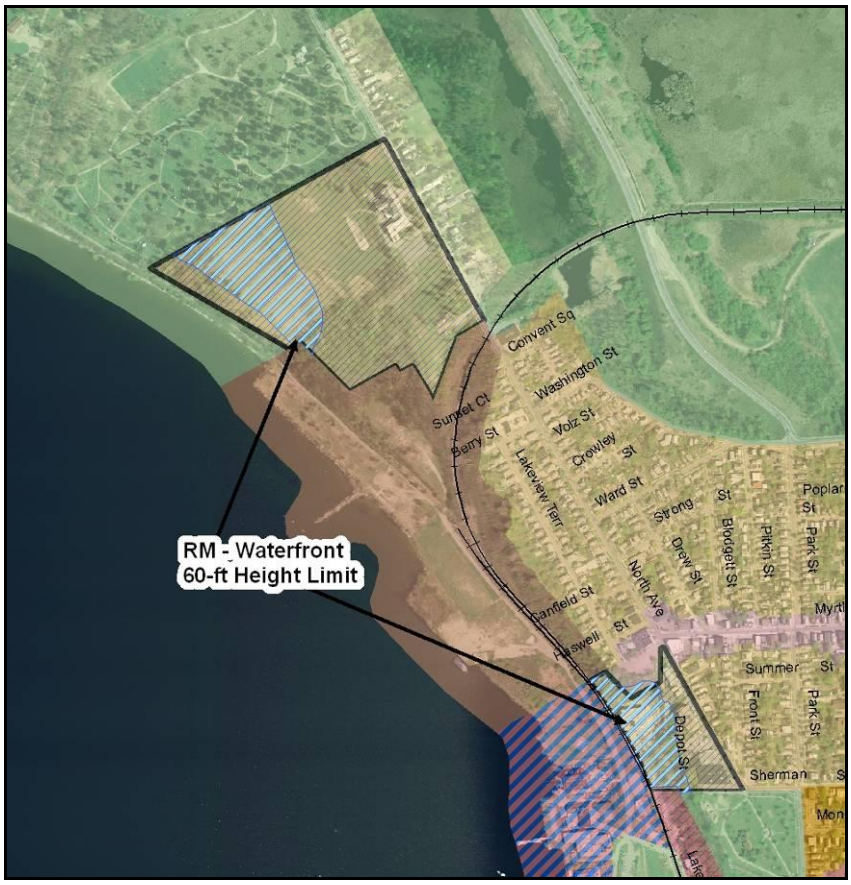
(ii) **Averaging of Setbacks of Existing Structures.**

If the waterfront setback of existing principal structures within a distance of one hundred fifty (150) feet on either or both sides of a lot is less than the required setback, the setback may be reduced to the average alignment of such structures.

2. Height

A. Exceptions in the Waterfront RM District.

In order is to preserve vistas of harbor activity within the breakwater area and to panoramic views of the mountain and lake from adjoining areas yet provide for additional development opportunities near the downtown area of the city, the maximum building height which may be permitted by the DRB shall be no more than sixty (60) feet in the area beyond two hundred (200) feet inland from the ordinary high water mark and below a base elevation of one hundred eighty (180) feet in the Waterfront Residential – Medium Density district.



Map 4.4.5-2 Waterfront RM Height Exceptions

3. Lot Coverage

A. Exceptions for Accessory Residential Features.

In the RL, RL-W, RM and RM-W districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed or be used for parking:

(i) Decks;

(ii) Patios;

(iii) Porches;

(iv) Terraces;

(v) Tennis or other outdoor game courts;

(vi) Swimming pools and swimming pool aprons;

(vii) Walkways; and/or,

(viii) Window Wells.

With the exception of the additional lot coverage allowances provided for under Inclusionary Zoning, requirements such additional lot coverage shall not be permitted for any development where bonus provisions of this ordinance are applicable.

4. Accessory Residential Structures and Uses

An accessory structure and/or use as provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential use, including but not limited to private garages, carriage houses, barns, storage sheds, tennis courts, swimming pools, cabanas for swimming pools and detached fireplaces may be permitted as follows:

A. Accessory Structures shall meet the dimensional requirement set forth in the district in which they are located pursuant to Sec. 4.4.5(b) of this Article and related requirements in Art 5, Part 2;

B. Any accessory structure that is seventy-five percent (75%) or greater of the ground floor area of the principle structure shall be subject to the site plan and design review provisions of Art. 3, Part 4 and the applicable standards of Art 6;

C. Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than seventy-five percent (75%) of the ground floor area of the principle structure;

D. The outdoor overnight storage of commercial vehicles not otherwise associated with an approved home occupation or made available for the exclusive use of the residential occupants, or the outdoor storage of more than one unregistered vehicle, shall be prohibited. Any and all vehicles shall be stored in an approved parking space; and,

E. Uncovered play structures, seasonal skating rinks, raised planting beds shall not require a zoning permit.

5. Residential Density

A. Additional Unit to Multi-Family.

One additional unit may be added to structures located in the RL district which legally contained two or more units as of January 1, 2007, if approved in advance as a conditional use, by the DRB.

B. Additions to Existing Residential Structures.

No request for an addition to an existing structure shall be considered or imply approval of an additional unit, unless requested specifically on the zoning permit application form.

C. Residential Occupancy Limits.

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.

Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty-five hundred (2,500) square feet excluding its attic and basement pursuant to the following:

(i) If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and one (1) additional parking space per adult occupant in excess of four (4); or,

(ii) If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and one (1) additional parking space per adult occupant in excess of four (4).

(iii) If in a RH district, the dwelling unit also contains at least an additional 150 square feet and 1 additional parking space per adult occupant in excess of four (4).

In considering a request relating to permitting a greater number of unrelated individuals residing in a dwelling unit within a residential zoning district, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet.

6. Uses

A. Exception for Existing Neighborhood Commercial Uses.

Neighborhood commercial uses as defined in Article 13 and intended to primarily serve the nearby residential area shall be considered permitted uses in all residential districts subject to the following:

(i) This exemption shall only apply to:

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

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

(ii) Neighborhood commercial uses shall be limited to a single story on the

street level of any structure.

(iii) Neighborhood commercial uses less than 2,000 sqft shall be treated as a permitted use. Neighborhood commercial uses greater than or equal to 2,000 sqft but less than 4,000 sqft shall be treated as a conditional use. Neighborhood commercial uses occupying 4,000 sqft or more shall not be permitted.

(iv) The neighborhood commercial use shall not be counted against the property's allowable residential density.

(v) The sale of fuel for motor vehicles, or new or expanded gas station canopies, shall be prohibited.

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

(vii) All building height and setback requirements for the underlying residential district shall apply, and the lot coverage shall not exceed 60%.

(viii) Any exterior changes to the building(s) or changes to the site plan shall be subject to the design review requirements of Article 6.

(ix) To the extent that additional parking is necessary, the parking standards for Shared-Use Districts shall apply pursuant to Article 8.

(x) The conversion of a residential use to a neighborhood commercial use within a historic neighborhood commercial building more than 50 years old and originally designed and constructed for such purpose shall be exempt from the housing replacement requirements of Article 9, Part 2.

(xi) Home occupations as defined and regulated under this article are not restricted by the provisions of this section.

(xii) Any aspect of a neighborhood commercial use in lawful existence as of January 1, 2007 not in strict conformance with any of the above standards shall be considered non-conforming and be subject to the provisions of Article 5, Part 3.

7. Residential Development Bonuses.

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

A. Inclusionary Housing Requirement.

Inclusionary Housing units shall be provided, with applicable additional lot coverage and density allowances, in accordance with the provisions of Article 9,

Part 1. A maximum of an additional 10-feet of building height may be permitted for an additional 5% inclusionary housing units provided in excess of the requirements of Article 9, Part 1. The total gross floor area dedicated to the additional inclusionary housing shall be equivalent to the gross floor area resulting from the additional allowance.

Additional lot coverage and residential densities allowances shall not exceed the following:

Table 4.4.5-4: Inclusionary Housing Allowances

District	Maximum Coverage	Maximum Density
RL/RL-W	44%	8.75 du/ac
RM	48%	25 du/ac
RM-W	72%	25 du/ac
RH	92%	46 du/ac

B. Senior Housing Bonus.

Residential development in excess of the density, lot coverage and building height limits specified in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB for senior housing provided the following conditions are met:

(i) No less than twenty-five (25) per cent of the total number of units shall be reserved for low-moderate income households as defined by state or federal guidelines, including no less than ten (10) per cent reserved for low-income households. (Projects taking advantage of this bonus are exempt from the Inclusionary Zoning requirements of Article 9, Part 1.);

(ii) The proposal shall be subject to the design review provisions of Art. 6;

(iii) A maximum of an additional 10-feet of building height may be permitted in the RH District; and,

(iv) Lot coverage and residential densities shall not exceed the following:

Table 4.4.5-5: Senior Housing Bonus

District	Maximum Coverage	Maximum Density
RL/RL-W	40%	20 du/ac
RM	50%	40 du/ac
RM-W	60%	40 du/ac
RH	80%	80 du/ac

C. Adaptive Reuse 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 within a historic building to a conforming residential use subject to all of the following conditions:

(i) The 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;

(ii) The gross floor area shall not exceed the pre-redevelopment gross floor area of the existing structure by more than twenty-five (25) percent;

(iii) The density limits of the underlying residential zoning district in Sec 4.4.5(b) above shall not apply. The intensity and extent of development shall be limited by gross floor area maximum in (ii) above and Table 4.4.5-6 below;

(iv) The adaptive reuse and rehabilitation conforms to the requirements of Art 5, Historic Buildings;

(v) Neighborhood commercial uses less than 2,000 sqft gross floor area may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A) above. Neighborhood commercial uses 2,000 sqft or larger in gross floor area shall not be permitted. In combination, the sum of neighborhood commercial uses shall be limited to no more than 50% of the gross floor area of the existing structure; and,

(vi) Lot coverage shall not exceed:

Table 4.4.5-6: Adaptive Reuse Bonus

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

D. 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,

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

Table 4.4.5-7: Residential Conversion Bonus

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

E. Limitations on Residential Development Bonuses:

For projects where the conditions of more than one applicable bonus listed above are met, the applicant may use the most permissive exemption to the underlying lot coverage or residential densities applicable, but applicable bonus provisions shall not be cumulative.

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	60%
RL, RL-W	20 du/ac	35-feet	50%

Sec. 4.4.6 Recreation, Conservation and Open Space Districts

(a) Purpose

The Recreation, Conservation and Open Space (RCO) Districts are intended to protect the function, integrity and health of the city's natural systems environment, provide for a

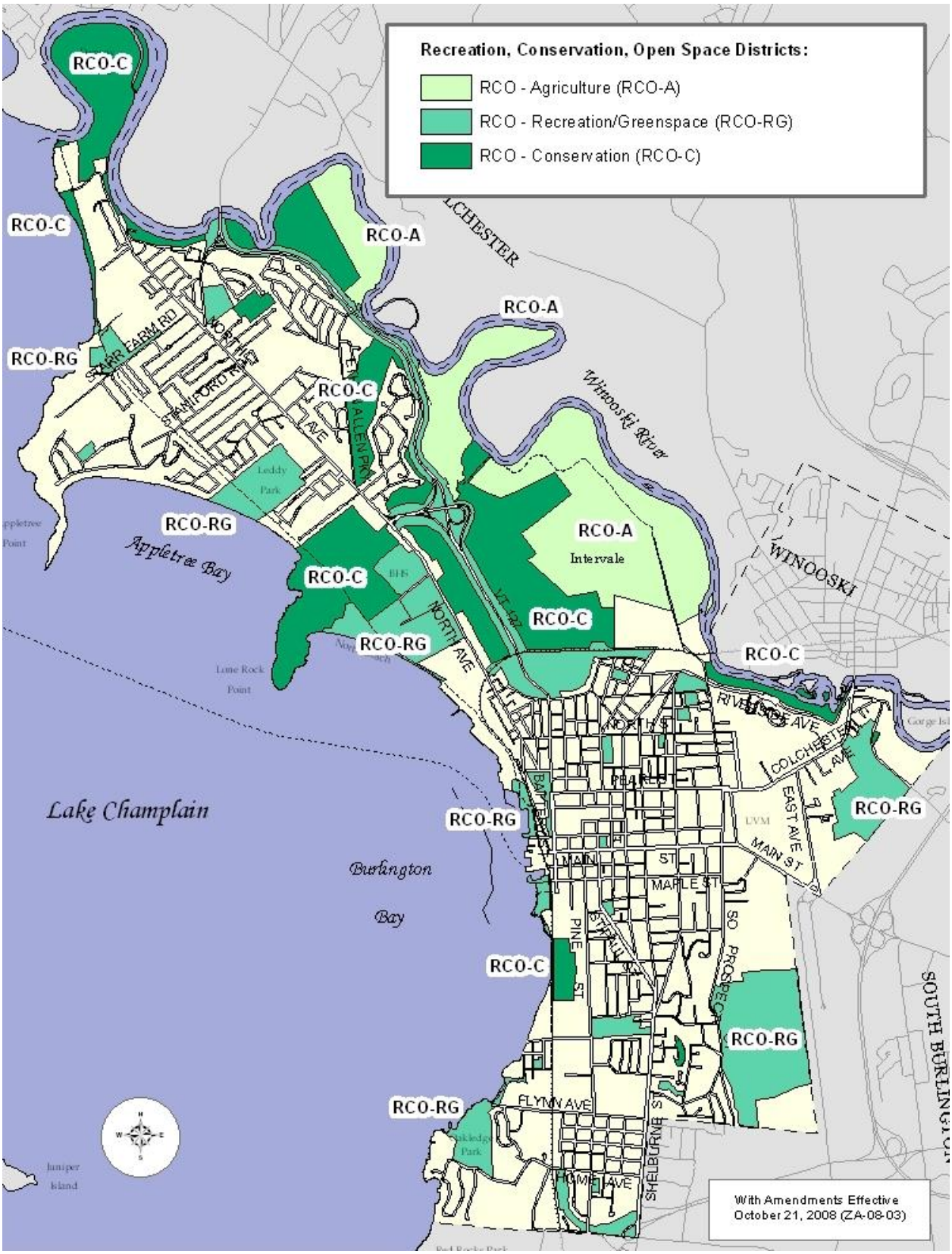
balance between developed and undeveloped land, protect air and water quality, provide adequate open areas for recreation, conservation, agriculture, and forestry, enhance the city's quality of life and the aesthetic qualities of the city, moderate climate, reduce noise pollution, provide wildlife habitat, and preserve open space in its natural state.

The RCO districts are subdivided into three parts, and are further described as follows:

1) **RCO-Agriculture (RCO-A):** The Agriculture District is intended to protect productive agricultural soils, provide opportunities for viable commercial agricultural production, and to protect natural resources and working forest lands. The Agricultural District may contain designated trails or corridors for compatible passive recreational use.

2) **RCO-Recreation/Greenspace (RCO-RG):** The Recreation/Greenspace District is intended to provide a diversity of passive and active recreational opportunities and other urban green spaces that provide for public use and enjoyment. The District includes a wide spectrum of recreational opportunities including developed parks with active public-use facilities, undeveloped open areas, dog parks, community gardens, urban parks and pocket parks, playgrounds, transportation corridors, and cemeteries. The District also includes private property, including a golf course and residential properties, where appropriate future development could be provided.

3) **RCO-Conservation (RCO-C):** The Conservation District is intended to preserve the function, integrity and health of the city's significant natural communities and features, both land and water, in their natural state for scientific, ecological, wildlife, educational or scenic purposes. The Conservation District may contain passive recreational opportunities where such activities are compatible with the protection of natural features.



Map 4.4.6-1 Recreation, Conservation, Open Space Districts

(b) Dimensional Standards and Density

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

Table 4.4.6 -1 Dimensional Standards and Density

District	Lot Coverage[1]	Setbacks[1]			Height[1]
		Front	Side[2]	Rear[2]	
RCO-A	5%	**15'**	10%	25%	35'
RCO-RG	5%	**15'**	10%	25%	35'
RCO-C	5%	**15'**	10%	25%	25'

1. See also exceptions to lot coverage, setbacks and maximum height in Article 5.
2. Percentages figure refers to either a percentage of lot width, 10% in the case of side yard setbacks, or lot depth of 25% in the case of rear yard setbacks.
3. City Parks have specific lot coverage maximums based on use and location. See table of lot coverage standards below.

Table 4.4.6 -2 City Park Lot Coverage Maximum Standards

Park	Lot Coverage
Baird Battery Park and Extension Calahan Champlain Street Leddy North Beach and Campground Oakledge Schmanska Smalley Staff Farm	15%
Appletree Lakeside	20%
Waterfront Park	25%
City Hall Park Pomeroy Roosevelt	30%
Perkins Pier Marina Facility	70%

(c) Permitted and Conditional Uses

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the RCO districts shall be as defined in Appendix A – Use Table.

Provided, notwithstanding the foregoing, a planned unit development may be permitted

pursuant to the standards and procedures of Article 11 hereof for residential development in accordance with the low density residential district (RL) allowances and standards for any property in excess of five acres which is located in the RCO-RG district south of Main Street. Any residential uses in the RCO-RG district south of Main Street existing on January 1, 2007 shall be treated as conforming uses and not otherwise subject to the restrictions for non-conforming uses pursuant to Sec.5.3.4.

(d) District Specific Regulations

The following regulations are district-specific exemptions, bonuses, and standards unique to the RCO districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above in Tables 4.4.6-1 and 4.4.6-2.

1. Lot Coverage Exemption for Agricultural Structures.

The maximum allowable coverage may be increased to ten percent (10%) in the RCO-Agricultural District for agricultural structures subject to approval by the DRB.

2. Exemptions for Tree removal and Turf Maintenance in City Parks.

Regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding shall be exempt from the requirement to obtain a zoning permit.

3. Exemptions for low impact design (LID) stormwater management techniques

Due to the unique nature and critical importance of City Parks in the City's overall green infrastructure, LID stormwater management techniques (such as pervious pavement and asphalt, green roofs and rain gardens etc…) shall be credited against lot coverage as determined by the City's Stormwater Administrator pursuant to the requirements of Burlington Code of Ordinances Chapter 26.

4. Pervious surface materials not included in impervious lot coverage calculations

Pervious surface materials, such as woodchips and clay or dirt playfields in City Parks shall not be included in impervious lot coverage calculations.

Sec. 4.4.7 Urban Reserve District

(a) Purpose:

The Urban Reserve District (UR) as illustrated in Map 4.4.7-1 is a unique and temporary zoning district intended to:

1) Temporarily preserve a large portion of the lake shore from development in order to concentrate waterfront development activities farther south within the Downtown and the Downtown Waterfront districts; and,

2) Reserve the right for future generations to determine the most appropriate combination of development and conservation that should occur at this site through a

comprehensive and participatory planning process.

As such, this District maintains the property as passively-used and publicly-accessible open space allowing for continued post-industrial re-naturalization, with opportunities for public education, enjoyment, and passive recreation.

No new development or dedicated uses on the property shall be considered except as may be provided below, including harbor-related development, and no additional fill shall be placed on the property unless part of an approved remediation plan.

Map 4.4.7-1 Urban Reserve District

(b) Dimensional Standards and Density:

There shall be no residential density, FAR or additional lot coverage permitted anywhere within this district.

(c) Permitted and Conditional Uses:

There shall be no permitted or conditionally permitted uses in this district with the exception of the following which shall be considered as Conditional Uses on a case-by-case basis:

1) The temporary staging of off-site construction projects requiring deep-water lake access or projects located on an adjacent property with no other suitable access;
2) The seasonal and temporary storage of snow by the City;
3) Site improvements associated with environmental remediation, mitigation, or re-naturalization plans that have been pre-approved by the appropriate state and/or federal agency. These improvements shall be conducted in such a way as to enhance the natural landscape and improve ecological functions, including but not limited to wetlands enhancement, shoreline stabilization and re-naturalization, removal of shoreline sheet pile, concrete and asphalt, and plantings for the purpose of enhancing the natural attenuation of contaminants; and,
4) Existing public recreational paths and railroad facilities and their necessary maintenance.

(d) District Specific Regulations

1) Any and all improvements in this district shall be consistent with any and all development and use restrictions and easements as may otherwise be applicable to the property.
2) Any authorization granted by the DRB shall include a prescribed duration for the activity after which such authority and all related permits shall expire. The DRB may consider an extension of this time period if such a request has been made prior to expiration. No permit should remain in effect for more than 2 years without reapplication and review pursuant to this section.
3) As a condition of any approval by the DRB for projects involving temporary construction staging or seasonal snow storage, the site shall be restored to its prior condition once the temporary activity has been completed for which the DRB may require a bond or other necessary surety in a form satisfactory to the city attorney.

PART 5: OVERLAY ZONING DISTRICT REGULATIONS

Sec. 4.5.1 Design Review Overlay District

(a) Purpose:

The Design Review Overlay District (DR) is intended to provide detailed individual review of certain uses and structures in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community has a particular interest in the design of future development in order to address specific land development objectives.

(b) Areas Covered:

The geographic[1] areas subject to the Design Review Overlay shall be as delineated on Map 4.5.1 – 1: Design Review Overlay, that include the following:

(1) The following zoning districts:

A. All Downtown and Neighborhood Mixed Use, Enterprise, Institutional, Urban Reserve, and Recreation, Conservation and Open Space districts; and,

B. The High-Density Residential (RH), Medium-Density Residential (RM), Medium-Density Residential - Waterfront (RM-W), and Residential Low Density - Waterfront (RL-W) districts.

(2) The following areas within the Residential – Low Density District:

A. All properties west of the Burlington Bike Path north of College Street;

B. All properties west of the Vermont Railway line south of Lakeside Ave;

C. All properties within 500' of Lake Champlain or the Winooski River;

D. All properties with frontage on Brooks Avenue;

E. All properties within the area bounded by Maple, South Willard, Howard and South Union streets;

F. All properties with frontage on the west side of South Union St. between Main and Howard streets;

G. All properties with frontage on the north side of Howard St. between South Union and St. Paul streets;

(3) The following uses, buildings, and properties within the Residential – Low District:

A. All nonresidential uses, residential uses with home occupations, or other conditional uses, having frontage on the following major streets:

[1] This Section only defines the geographic areas of the city that are subject to Design Review. Other types of development are also subject to Design Review pursuant to the requirements of Article 3, Part 4.

(i) Shelburne Street, from its point of beginning southerly to its intersection with Home Avenue;

(ii) South Union Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;

(iii) St. Paul Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;

(iv) Colchester Avenue, from its intersection with East Avenue northeasterly to its intersection with Barrett Street; and

(v) North Avenue, from its intersection with Convent Square northerly to its intersection with Plattsburg Avenue.

Map 4.5.1-1: Design Review Overlay

(c) District Specific Regulations: Design Review Overlay District:

Within this overlay district, no structure may be erected, reconstructed, substantially altered, restored, moved, or demolished or any site improvement or modification made without approval subject to the provisions of Article 3, Part 4 pertaining to Design Review and the review criteria described in Art 6.

Sec. 4.5.2 Institutional Core Campus Overlay Districts

(a) Purpose

The Institutional Core Campus Overlay (ICC) districts are intended to provide for reasonable future growth for institutions within the core of their respective campuses without further intrusion into surrounding residential neighborhoods. This overlay allows increased development than would typically be found in the underlying districts. Development is intended to be more intense than the surrounding neighborhoods with higher lot coverage and larger buildings. New development should provide sensitive transitions to the historic development pattern and scale of the surrounding campus. Buildings both large and small should be designed with a high level of architectural detailing to provide visual interest and create enjoyable, human-scale spaces. Sites should be designed to be pedestrian friendly and encourage walking between buildings. Circulation should largely emphasize the needs of pedestrians and bicycles, and parking should be very limited and generally provided offsite. Where parking is provided, it should be hidden either within or underneath structures.

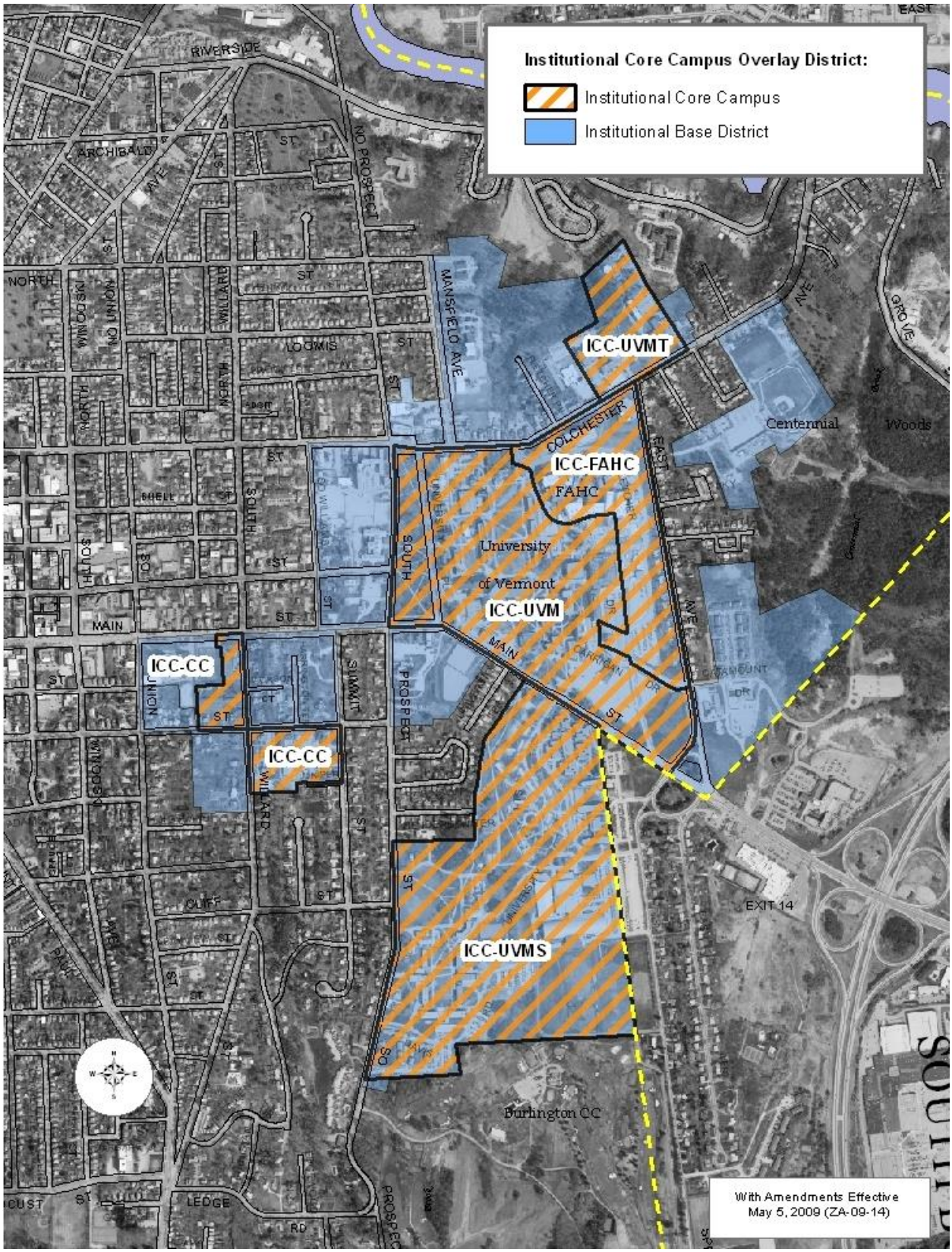
(b) Areas Covered.

The Institutional Core Campus Overlays as delineated on Map 4.5.2-1, and are further described as follows:

1. **Fletcher Allen Health Care Medical Center Campus (ICC-FAHC)** allows for an increased development scale and intensity than would typically be found in the adjoining and underlying districts to support continued growth and expansion of the state's academic medical center. As a regional tertiary-level care facility, on-site parking is expected to play a larger role than otherwise would be expected for other institutional campus overlays in order to accommodate the needs of patients and visitors. While outdoor spaces and circulation systems should be inviting and accommodating for pedestrians, the overall development of the campus would be expected to emphasize the needs of internal circulation and functions in order to meet patient care requirements;

2. **UVM Central Campus (ICC-UVM)** allows for an increased development scale and intensity than would typically be found in the adjoining and underlying districts to support continued growth and expansion of the state's flagship academic institution. In contrast to the ICC-FAHC, this core campus would be expected to be dominantly pedestrian-oriented, with all but the most essential parking provided off-site. Development within this core campus should reflect the institution's core educational values in both design and quality;

3. **UVM Trinity Campus (ICC-UVMT)** is intended to provide reasonable future use of the Trinity College campus and to preserve the residential character of the existing neighborhoods adjacent to the district;
4. **UVM South of Main Street Campus (ICC-UVMS)** is intended to provide reasonable future use of the UVM residential and athletic campuses south of Main Street without further intrusion into the surrounding residential neighborhoods. This district allows for an increased development scale and intensity than would typically be found in the adjoining and underlying districts to support continued growth and expansion of the state's flagship academic institution. This core campus would be expected to be dominantly pedestrian-oriented, with all but the most essential parking provided off-site. Development within this core campus should reflect the institution's core educational values in both design and quality; and,
5. **Champlain College (ICC-CC)** allows for an increased development scale and intensity than would typically be found in the adjoining and underlying districts to support the long-term development of this small educational institution. Similar to the ICC-UVM, this core campus would be expected to be dominantly pedestrian-oriented, with all but the most essential parking provided off-site. Development within this core campus should reflect the both institution's core educational values and the character of this historic residential neighborhood in both design and quality.

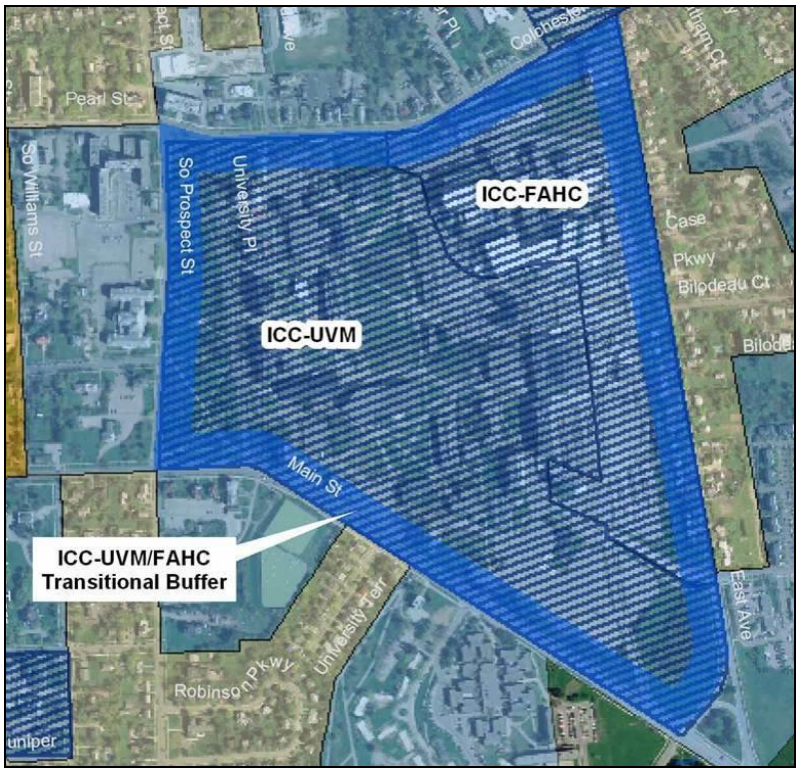


Map 4.5.2–1: Institutional Core Campus Overlay

(c) District Specific Regulations: Fletcher Allen Health Care Campus (ICC-FAHC);

1. Transitional Buffer:

A. The Transitional Buffer shall include all property within the area as measured from the centerlines of Colchester Avenue and East Avenue, and extending 150 feet into the ICC-FAHC District as delineated on Map 4.5.2-2 Transitional Buffer.



Map 4.5.2–2: Transitional Buffer

B. Lot coverage shall not exceed 40% for the aggregate of all land owned by an institution and located within the Transitional Buffer.

C. Unless replaced on site, no housing unit in a residential structure located within the Transitional Buffer shall be demolished or converted to a nonresidential use, except for housing units which are exempt from the provisions of Article 9. The Housing Replacement standards of this ordinance shall apply to any such activity.

2. Lot coverage

Maximum lot coverage shall be applied to the aggregate of all lots owned by a respective institution and located within the ICC-FAHC District. Lot coverage shall not exceed 60% except as provided below.

The maximum lot coverage for the entire tract of land owned by an institution within

the ICC-FAHC District may be increased by one percent for each one percent that the Transitional Buffer coverage is less than 40%, up to a maximum of 65%.

3. Setbacks

Minimum side and rear yard setbacks in the underlying zoning district shall not be applicable within the ICC-FAHC District.

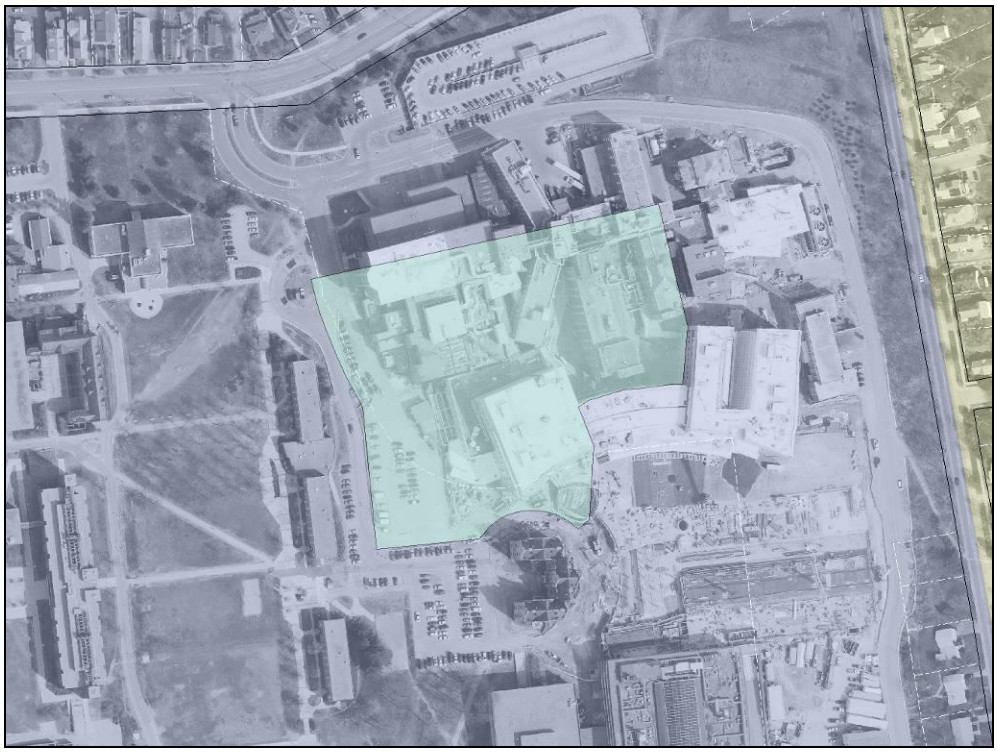
Front setbacks shall be fifteen (15') feet measured only along any street defining the Transitional Buffer.

4. Surface Parking

No new outdoor surface parking spaces shall be permitted unless the number of the new outdoor surface parking spaces is offset by a corresponding removal of outdoor surface parking spaces existing as of January 1, 2007, and upon the approval by the DRB.

5. Building Height

No portion of any building within the ICC-FAHC Height Overlay (as delineated on Map 4.5.2-3 ICC-FAHC Height Overlay) shall exceed the elevation of a plane running parallel to the earth at 540-feet above mean sea level. The provisions of Sec. 5.2.5 Building Height Limits shall not be applicable within the ICC-FAHC Height Overlay.



Map 4.5.2-3 ICC-FAHC Height Overlay

No portion of any building outside of the ICC-FAHC Height Overlay may exceed the elevation of a plane running parallel to sea level from the highest point of the tallest structure at the highest elevation within the ICC-FAHC District as depicted as of

January 1, 2009.

6. Density

In the ICC-FAHC District, density restrictions set forth in Article 4, Sec. 4.4.4 shall not apply to dormitories and rooming houses as defined in Chapter 18 of the Burlington Code of Ordinances. The restrictions on the non-residential equivalent set forth in Art. 5, Sec. 5.2.7 (a) 2 shall not apply in the ICC-FAHC District.

(d) District Specific Regulations: UVM Central Campus (ICC-UVM);

1. Transitional Buffer:

A. The Transitional Buffer shall include all property within the area as measured from the centerlines of Colchester Avenue, East Avenue, Main Street, and South Prospect Street and extending 150 feet into the ICC-UVM District as delineated on Map 4.5.2-2 UVM/FACH ICC Transitional Buffer above.

B. Lot coverage shall not exceed 40% for the aggregate of all land owned by an institution and located within the Transitional Buffer.

C. Unless replaced on site, no housing unit in a residential structure located within the Transitional Buffer shall be demolished or converted to a nonresidential use, except for housing units which are exempt from the provisions of Article 9. Housing Replacement standards of this ordinance shall apply to any such activity.

2. Lot coverage

Maximum lot coverage shall be applied to the aggregate of all lots owned by the institution and located within the ICC -UVM District. Lot coverage shall not exceed 65% except as provided below.

The maximum lot coverage within the ICC -UVM District may be increased by one percent for each one percent that the Transitional Buffer coverage is less than 40%, up to a maximum of 70%.

3. Setbacks

Minimum side and rear yard setbacks in the underlying zoning district shall not be applicable within the ICC -UVM District.

Front setbacks shall be fifteen (15') feet measured only along any street defining the Transitional Buffer.

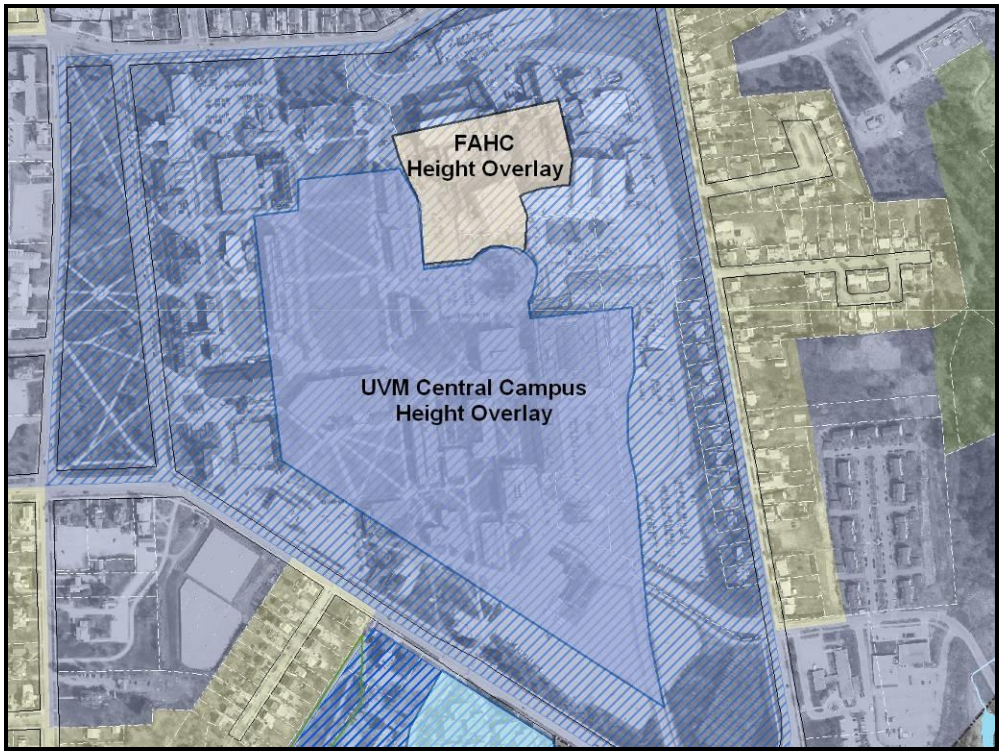
4. Surface Parking

No new outdoor surface parking spaces shall be permitted unless the number of the new outdoor surface parking spaces is offset by a corresponding removal of outdoor surface parking spaces existing as of January 1, 2007, and upon the approval by the DRB.

5. Building Height

Building height shall be measured under the provisions of Art. 5 except that the Measurement Interval method specified in Sec. 5.2.5(a)(3) shall not apply.

For the sole purpose of regulating building height, the ICC-UVM District shall include an ICC-UVM Central Campus Height Overlay as delineated on Map 4.5.2-4 below. Building height within the ICC-UVM Central Campus Height Overlay shall not exceed 140-feet.



Map 4.5.2-4 ICC-UVM Central Campus and Height Overlay

For all other areas within the ICC-UVM District, except for ornamental and symbolic architectural features, additions and new construction may be built to a height that does not exceed the lesser of:

A. The actual height of the tallest existing structure as of January 1, 2008 and located within the core campus district; or,

B. The elevation of a plane running parallel to sea level from a point defined by the roof of the tallest structure at the highest elevation within the parcel as depicted as of January 1, 2008.

6. Density

In the ICC -UVM District, density restrictions set forth in Article 4, Sec. 4.4.4 shall not apply to dormitories and rooming houses as defined in Chapter 18 of the Burlington Code of Ordinances. The restrictions on the non-residential equivalent set forth in Art. 5, Sec. 5.2.7 (a) 2 shall not apply in the ICC -UVM District.

7. Uses:

Within the ICC-UVM District, Schools - Post-secondary and Schools - Community Colleges shall be treated as permitted uses.

(e) District Specific Regulations: UVM Trinity Campus (ICC -UVMT):

1. Lot Coverage

Lot coverage within the ICC-UVMT district shall not exceed 40% except as may be allowed under the inclusionary housing provision of Article 9, Inclusionary Housing.

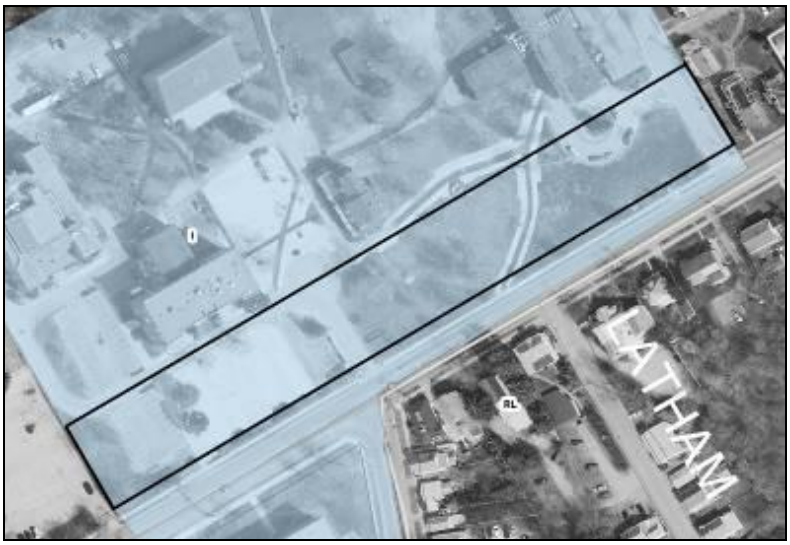
Maximum lot coverage shall be applied to the aggregate of all lots owned by a single entity and located within the ICC-UVMT district.

2. Setbacks:

Development in the ICC-UVMT shall be subject to the setback requirements as specified under the provisions of the underlying zoning district.

Minimum side and rear yard setbacks shall not be applicable between parcels under the same ownership within the ICC-UVMT district, but shall apply along the perimeter of the district.

Colchester Avenue Buffer. Within the ICC-UVMT no development of new surface parking or new structures, except for ancillary structures no larger than 200 square feet, shall be permitted within a setback of 115 feet from the front property line on Colchester Avenue.



3. Surface Parking

No new outdoor surface parking spaces shall be permitted in the ICC-UVMT district unless the number of the new outdoor surface parking spaces is offset by the corresponding removal of outdoor surface parking spaces in the ICC-UVMT district existing as of January 1, 2002 and the Development Review Board has approved such offset in issuing a certificate of appropriateness.

4. Height:

Additions and new construction may be built to a height that does not exceed the greater of thirty-five feet (35') or the height of existing structures located on the same parcel within the ICC-UVMT district, but in no instances shall any building exceed fifty-five feet (55') in height as measured from finished grade.

5. Density:

In the ICC-UVMT district, the restrictions on residential density set forth in the underlying zoning district, and in Article 9 (Inclusionary Housing) shall apply to all development, including changes in use.

Unless replaced on site no housing unit in a residential structure located within the ICC-UVMT shall be demolished or converted to a nonresidential use, except for housing units that are exempt from the provisions of Article 9, Part 2 - Housing Preservation and Replacement/Demolition and Conversion.

6. Uses:

Within the ICC-UVMT, only the following uses shall be permitted or conditionally permitted:

Permitted Uses:	**Conditional Uses:**
Residential	
Assisted Living	
Attached Dwelling(s) – Mixed-Use	
Attached Dwellings - Multi-Family	
Attached Dwellings – Duplex	
Boarding House	
Convalescent /Nursing Home	
Single Detached Dwelling	
Non-Residential	
Bed and Breakfast,	Bakery – Retail
Community Center	Bank
Daycare – Large, Daycare - Small	Café
Dormitory	Convenience Store
Health Care Hospitality	Credit Union
Health Club	Dental Lab
Health Studio	Dry Cleaning Service
Historic Inn	General Merchandise/Retail – Small <4,000sqft
Hostel	Grocery Store – Small ≤10,000sqft
Office – General	Medical Lab
Office - Medical, Dental	Pharmacy
Park	Research and Development Facility
Performing Arts Studio	Research Lab
Record and Document Storage	Restaurant

Permitted Uses:	Conditional Uses:
School - Post-Secondary & Community College	
School - Preschool	
Worship, Place of	

All non-residential uses are Permitted Uses within buildings existing as of January 1, 2002; and are Conditional Uses if located within a new building to be constructed after January 1, 2002.

No permitted or conditional use in the ICC-UVMT District may include drive-through facilities, gas pumps or canopies.

7. Parking:

Parking for all uses and structures shall be in accordance with the provisions of Article 8, Part 3 Institutional Parking Plans.

8. Review Requirements:

Within the ICC-UVMT, any new construction or any change in use of 15,000 square feet or more (including any cumulative change of use or new construction of 15,000 square feet or more within a twelve month period) shall be subject to the conditional use major impact review criteria (Article 3).

(f) District Specific Regulations: UVM South of Main Street Campus (ICC - UVMS):

1. Lot coverage

Maximum lot coverage shall be applied to the aggregate of all lots located within the ICC -UVMS District. Lot coverage shall not exceed 60%.

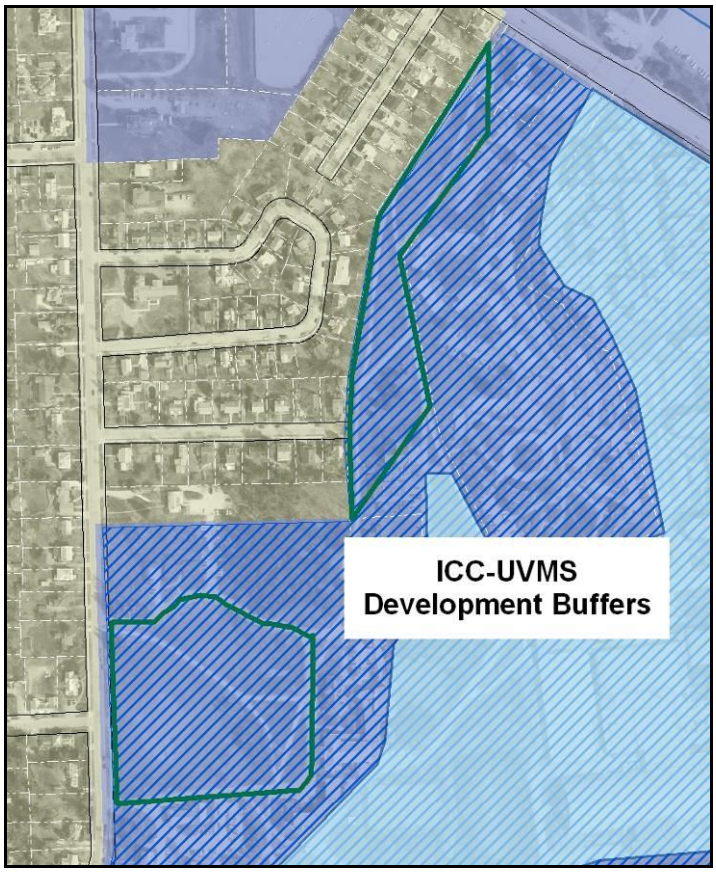
2. Setbacks

Side and rear yard setback requirements as stipulated in the underlying zoning district shall be applicable only along the perimeter of the ICC -UVMS District.

A front yard setback defined by the existing building line as of January 1, 2008 shall be maintained along the South Prospect Street and Main Street frontages of the ICC - UVMS District.

3. Development Buffer

No new structures or surface development shall be permitted within the designated ICC-UVMS Development Buffers as delineated on Map 4.5.2-5 below. These areas shall be maintained as open greenspace, however landscaping, outdoor lighting, street furniture, and subsurface infrastructure improvements may be permitted.



Map 4.5.2-5 ICC-UVMS Development Buffers

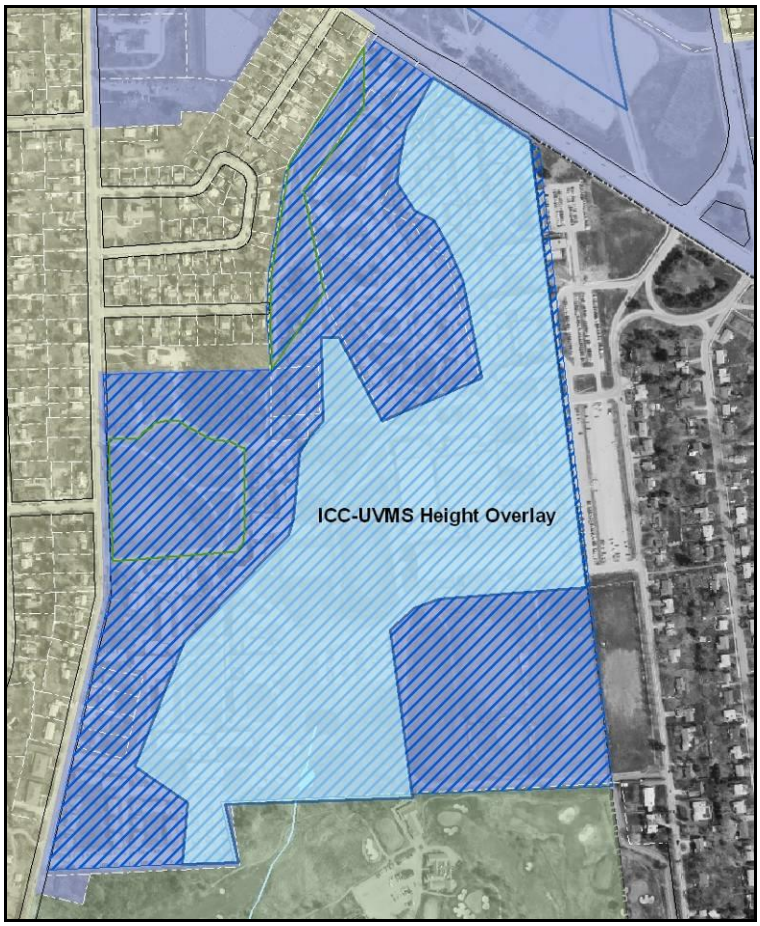
4. Surface Parking

No new outdoor surface parking spaces shall be permitted unless the number of the new outdoor surface parking spaces is offset by a corresponding removal of outdoor surface parking spaces existing as of January 1, 2008, and upon the approval by the DRB.

5. Building Height

Building height shall be measured under the provisions of Art. 5.

For the sole purpose of regulating building height, the ICC-UVMS District shall include an ICC-UVMS South of Main Street Campus Height Overlay as delineated on Map 4.5.2-6 below. Building height within the ICC-UVMS South of Main Street Campus Height Overlay shall not exceed 80-feet.



Map 4.5.2-6 ICC-UVMS South of Main Street Campus Height Overlay

For all other areas within the ICC-UVMS District, except for ornamental and symbolic architectural features, additions and new construction may be built to a height that does not exceed the actual height of the tallest existing structure as of January 1, 2008 and located within the ICC-UVMS District.

6. Density

In the ICC -UVMS District, density restrictions set forth in Article 4, Sec. 4.4.4 shall not apply to dormitories and rooming houses as defined in Chapter 18 of the Burlington Code of Ordinances. The restrictions on the non-residential equivalent set forth in Art. 5, Sec. 5.2.7 (a) 2 shall not apply in the ICC -UVMS District.

7. Uses:

Within the ICC-UVMS District, Schools - Post-secondary and Schools - Community Colleges shall be treated as permitted uses.

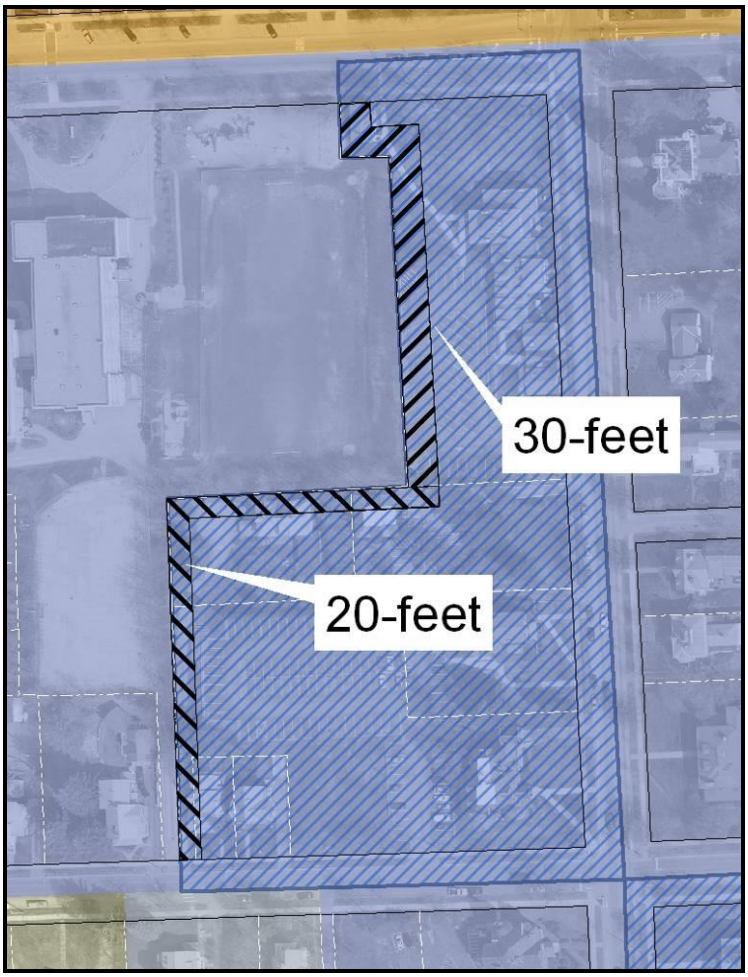
(g) District Specific Regulations: Champlain College (ICC -CC):

1. Lot Coverage

Lot coverage within the ICC-CC shall not exceed 60% inclusive of any applicable bonus provisions.

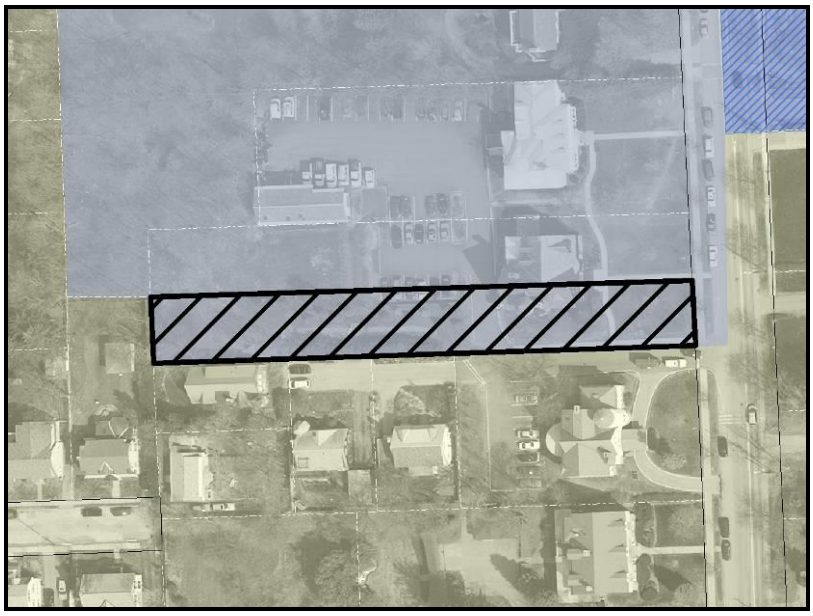
2. Setbacks:

A. Except as illustrated below, a 20-foot setback shall be applicable along the perimeter of any contiguous ownership of Champlain College within the core campus district. As illustrated below, a 30-foot setback shall be applicable along the western perimeter of the Champlain College Residential Core Campus as delineated on Map 4.5.2-7 ICC-CC Core Campus adjacent and to the east of the Edmunds School playing field.



B. The front yard setback defined by the existing building line as of January 1, 1994 shall be maintained along the South Willard Street frontage south of Maple Street.

C. No new structures shall be placed with 50-feet of the College's southern property line that runs approximately parallel to Tower Terrace as illustrated below.



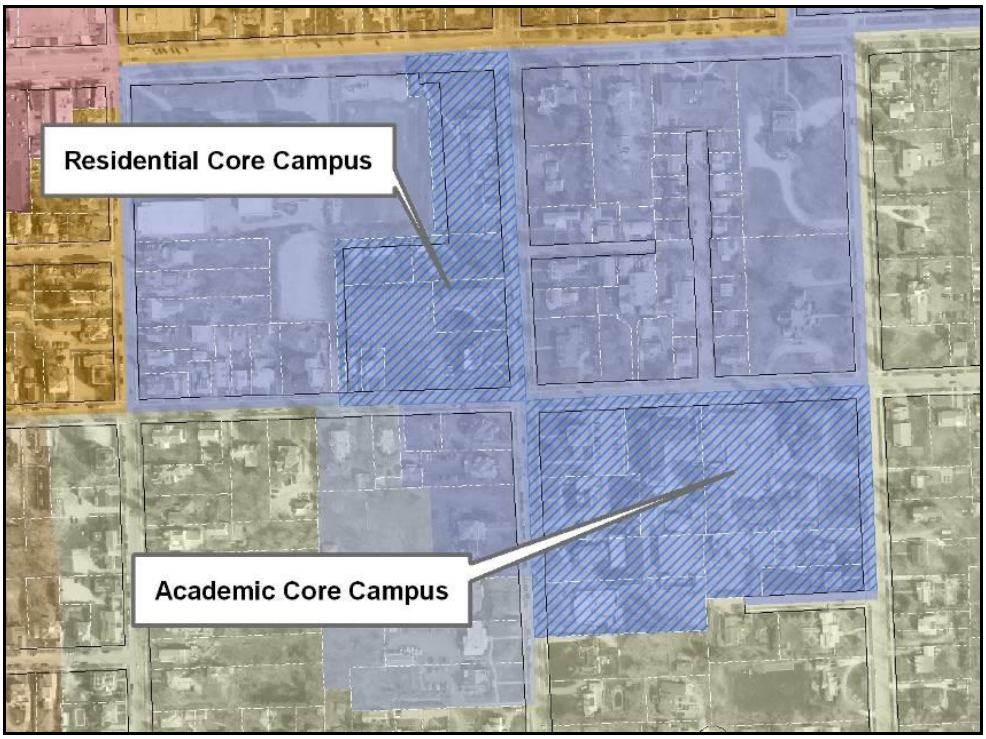
3. Surface Parking

No new unstructured surface parking lots shall be permitted in the ICC-CC except for exchanging or consolidating with existing unstructured surface parking lots. Such exchanges or consolidations may occur only upon approval by the DRB.

4. Density

For the purposes of regulating the intensity of development and the total number of residential beds, the core campus district shall be divided into two areas: a Residential Core Campus and an Academic Core Campus as delineated on Map 4.5.2-7 ICC-CC Core Campus below.

Core Campus	Floor Area Ratio	Maximum Residential Beds
Residential Core Campus	1.0	530
Academic Core Campus	1.1	150



Map 4.5.2-7 ICC-CC Core Campus

Sec. 4.5.3 RH- Density Bonus Overlay District

(a) Purpose:

The RH-Density Bonus Overlay District is intended to provide an incentive for the conversion of non-residential uses to residential uses within the RH Zoning District to reduce the number of non-conforming uses and increase the supply of housing near the downtown area.

(b) Areas Covered:

The RH-Density Bonus Overlay District includes that portion of the RH Zoning District bordered on the north by Main Street, on the south by Maple Street, on the west by Pine Street and on the east by South Union Street as delineated on Map 4.5.3-1 RH Density Bonus Overlay District. Eligible properties shall be limited to only those existing non-residential single lots of record as of February 8, 2001 of at least one-half acre in size (21,780 sqft). Contiguous lots shall not be combined to meet this minimum lot size standard with the following exception: a half acre lot may be combined with any contiguous surface parking lot(s) of any size in order to receive the benefits as set forth in this overlay.

Map 4.5.3–1: RH Density Bonus Overlay

(c) District Specific Regulations: RH-Density Bonus Overlay:

1. Conditional Use Review

Any redevelopment undertaken pursuant to the provisions of this overlay district shall be subject to conditional use review pursuant to Article 3.

2. Maximum Residential Density:

An existing non-residential property may be redeveloped for a residential use at a

density not to exceed 92 units per acre inclusive of any applicable inclusionary allowances pursuant to Article 9 or development bonuses pursuant to Sec. 4.4.5.

3. Building Height:

For the purposes of regulating building height, this overlay district is divided into the following two (2) areas,

A. In that portion of this overlay between South Union and Church Street, in no event shall the height of any structure exceed sixty eight (68) feet.

B. In that portion of this overlay between Church and Pine Street, in no event shall the height of any structure exceed fifty-five (55) feet.

Subject to such maximum building heights, the following shall also apply:

C. The height of any proposed building or addition shall not be more than fifteen (15) feet greater than the average height of existing buildings within the same block having frontage on the same street as the proposed;

D. A height greater than that allowed in (C) above may be permitted if such additional height is set back from the front property line a minimum of twenty-five percent (25%) of the width of the street right-of-way, and in no event less than fifteen (15) feet from the front property line.

E. The height allowance for frontage on one street shall not adversely impact the streetscape of an adjacent street, in the judgment of the development review board

F. That portion of any building which is constructed to a height in excess of the height allowed per the underlying zoning district as provided above, must maintain a setback equal to fifty percent (50%) of that portion's height from the property line shared with any adjacent residential structure. The distance of such a setback will be maintained only for that portion of the building immediately adjacent to an existing residential property.

4. Setbacks:

Front yard setbacks shall be as required in the underlying zoning district, subject to the following exceptions:

A. Up to twenty-five percent (25%) of the building façade above the ground level story may project into the front yard setback by not more than fifty percent (50%) for the purpose of creating architectural variation and avoiding large expanses of undifferentiated building wall.

B. At the ground level, patios, paved courtyards, and sitting areas may be allowed within the front setback. Such allowances are subject to approval by the development review board under the design review criteria of Article 6. If the board deems it necessary, it may impose a greater setback in order to achieve the streetscape objectives found in Article 6.

5. Construction Materials:

Any new structure utilizing the height bonus provisions as specified under this

subsection shall be constructed of quality masonry materials or other comparable materials of similar durability on all elevations. The exterior material and windows shall also be of a type that the DRB deems effective for sound buffering.

6. Parking Requirements:

In addition to the parking requirements found in Article 8, the following shall also apply within this Overlay:

There shall be at least one parking space per residential unit (exceptions for senior and affordable housing, as outlined in Article 8, shall apply).There shall be an affirmative finding by the DRB that the proposed development provides adequate parking for its residents and non-residential uses. At least seventy-five (75%) of the parking spaces required after any waiver shall be provided onsite as structured parking spaces. Any structured parking shall be concealed by the structure or the building so that it is not visible from the street (the entrance and exit may be visible).

7. Permitted Non-Residential Uses:

The following nonresidential uses may be permitted by the DRB on the ground floor of the structure: art gallery, bakery, bank/credit union, beauty/barber shop, daycare, food store, health club, laundromat, office (general), office (medical or dental), open air market, photo studio, restaurant, retail, tailor shop, and theatre.

8. Residential Occupancy:

Each unit of any structure erected pursuant to this subsection shall be occupied by a "family" as defined in Article 13.

9. Character of the Area Affected:

When the DRB reviews a project under the provisions of Article 3 - Conditional Use Review, it shall take into consideration that developments utilizing this bonus are located in an area adjacent to the Downtown. In making its determinations and setting conditions under the standard "Character of the area affected," the DRB shall consider that it is the public policy of the City of Burlington that where there are conflicts between public uses and activities and the quiet enjoyment of residents in developments utilizing the bonuses permitted in the underlying district, the public uses and activities shall take precedence and the development shall be designed in a manner that mitigates the conflicts.

Sec. 4.5.4 Natural Resource Protection Overlay (NR) District

(a) Purpose and Authority:

The Natural Resource Protection Overlay District is intended to:

- Protect surface waters and wetlands from encroachment by development, and from sources of non-point pollution;
- Protect the functions and values of Burlington's wetlands;

- Protect and enhance water quality near public beaches and other water-based recreation areas from sources of non-point pollution;
- Preserve natural features and communities, geologic features and cultural sites for education and research.
- Provide opportunities for public access where feasible and appropriate;
- Facilitate connections and corridors for wildlife between areas of publicly protected sites.
- Ensure that development that occurs within a Flood Hazard Area conforms to the requirements of the National Flood Insurance Program.
- Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and
- Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- Make the City of Burlington and its residents eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(b) Areas Affected

This overlay district consists of all areas delineated on Map 4.5.4-1-Natural Resources Protection Overlay (NR) District and is divided into four (4) subparts:

1. A **Riparian and Littoral Conservation Zone** which consists of all surface water and a corresponding upland buffer area, and specifically includes the following areas:

   A. Uplands within 250 feet of the Lake Champlain lakeshore (measured at 100-feet above mean sea level) with the exception of that portion of the shoreline between the northern extent of the Interim Development Area north of the former Moran Generating Station and the most westerly extent of Roundhouse Point described as the "Urban Waterfront" in the *2000 Open Space Protection Plan*;

   B. Uplands within 250 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank where the channel has access to its floodplain, of the Winooski River;

   C. Uplands within 100 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank, where the channel has access to its floodplain, of Engelsby Brook, Potash Brook or Centennial Brook; and,

   D. Uplands within 50 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the

bank where the channel has access to its floodplain, of all other minor streams, or the mean shoreline of all other minor ponds;

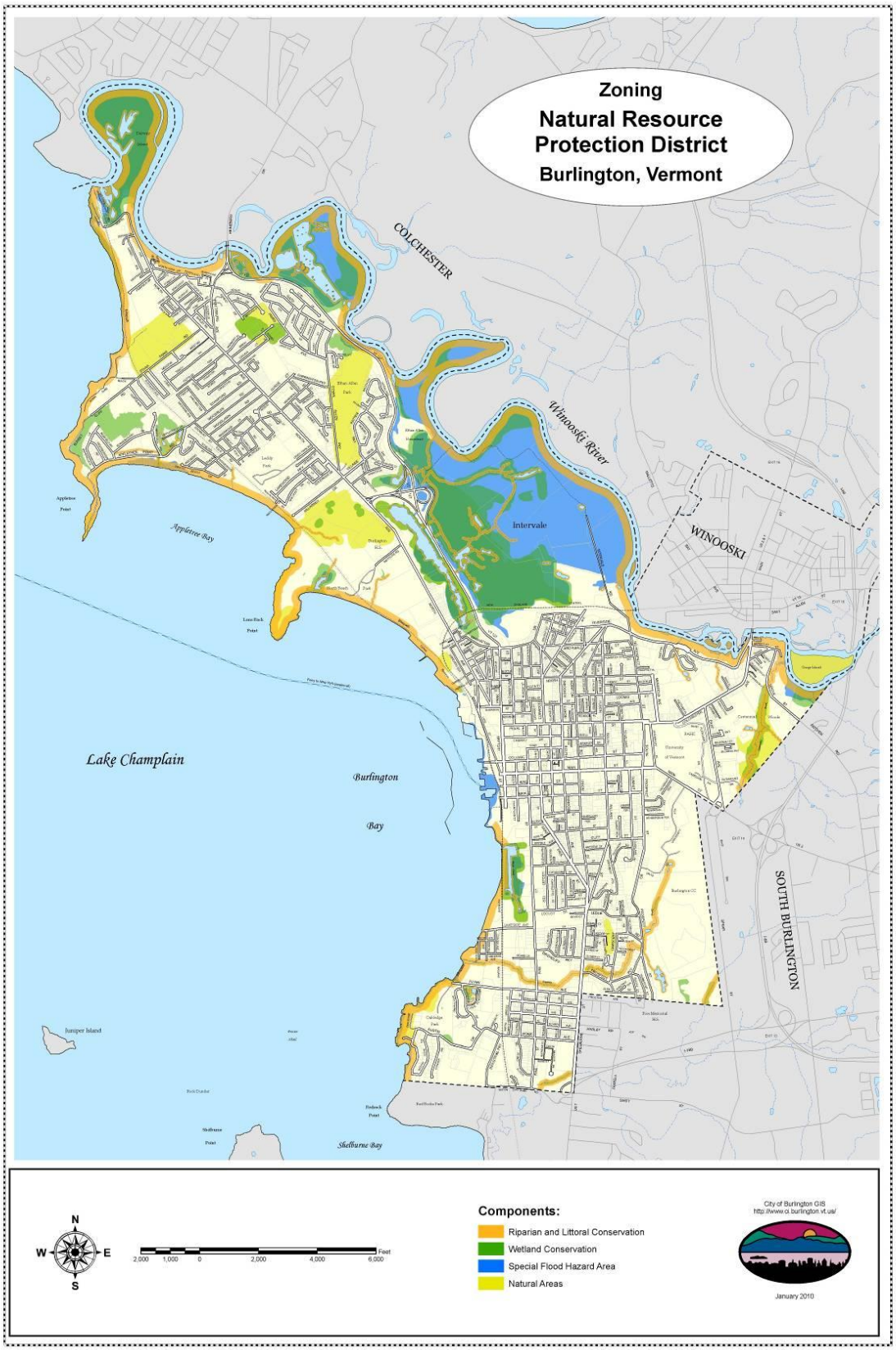
2. A **Wetland Conservation Zone** which consists of wetlands and a corresponding upland buffer area for the following areas:

   A. Uplands within 100 feet of all wetlands depicted in Map 4.5.4-1, Natural Resource Protection Overlay District except in cases where the State of Vermont has established a greater buffer zone width; and.

   B. Uplands within 100 feet from all vernal pools.

3. A **Natural Areas Zone** which consists of all areas identified as Significant Natural Areas in the City's *Open Space Protection Plan* and a corresponding buffer area of 100 feet; and,

4. A **Special Flood Hazard Area** which consists of all areas in the City of Burlington, Vermont identified as special flood hazard areas in and on the most current flood insurance studies and maps of the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.



Map 4.5.4-1: Natural Resource Overlay District

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

1. Permitted Uses:

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

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

B. "Accepted agricultural and silvicultural practices" as defined under 24 VSA Ch 117;

C. Normal maintenance of constructed wetlands and stormwater systems, provided that naturally occurring wetlands are not disturbed in conjunction with the maintenance;

D. Normal maintenance of existing docks, roads, rail lines, bridges, and culverts provided that disturbance to any shoreland is minimized in conjunction with such maintenance;

E. Selective cutting of less than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle; and,

F. Recreational and educational activities such as hiking, walking, fishing, nature study, and bird watching and associated boardwalks and unimproved trails.

2. Prohibited Uses:

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

A. The deposition or introduction of organic and inorganic chemicals, including herbicides and pesticides, except when the application of pesticides is reviewed and approved by the BCB and DRB, and performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of controlling invasive species and subject to the requirements of the City's pesticide application ordinance (Burlington Code of Ordinances, Chapter 17, Section 9); and,

B. The off-road use of any motorized vehicles including ATVs or dirt bikes (the temporary use of motorized vehicles used to construct and maintain permitted or regulated activities are specifically exempted from this prohibition);

3. Conditional Uses:

Except where otherwise noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including any construction of buildings or other structures, and roads, parking areas or any other impervious surface, may be approved only within the Riparian and Littoral Conservation Zone and its associated

buffer after review and approval pursuant to the Conditional Use review provisions of Article 3 and subject to the requirements and limitations below under Subpart 4.

4. Requirements

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

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

2. Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of Water Quality;

3. Installation of any seawalls, rip-rap or other shoreland retention structures shall be submitted for review by the conservation board who shall consult with the city engineer prior to issuance of a recommendation to the DRB; and,

4. No new stormwater outfall shall directly discharge into any surface water without approval and implementation of a stormwater management plan approved by the city engineer.

(d) District Specific Regulations: Wetland Conservation Zone:

1. Additional Application Requirements

The following information shall be submitted in addition to the applicable requirements of Article 3 for any development involving a wetland or wetland buffer zone:

A. Boundary Determination: The boundaries of a wetland shall be determined in the field by a qualified professional with expertise in wetland delineation and surveyed by a licensed land surveyor or other qualified individual. The boundary between wetland and upland shall be delineated by the methodology set forth in the Vermont Wetland Rules. The identification and delineation of wetlands for a proposed project must be performed within a five-year period prior to submission and acceptance of a complete zoning application;

B. A report addressing the project's impact on the wetland functions and values, and the measures that the applicant has incorporated into the project to avoid and minimize wetland impacts shall be prepared by a qualified professional with expertise in wetland delineation and evaluation;

C. A site plan for a project that will impact a wetland or buffer zone shall include delineated wetland boundaries, buffer zone boundaries, erosion control measures, and all components of the proposed project, including, but not limited

to all structures, driveways, parking areas, lawns, utilities, and the overall footprint of the construction area/zone of disturbance; and,

D. As part of their application, applicants must submit a complete stormwater management, erosion prevention and sediment control plan pursuant to the requirements of Sec 5.5.3, and successfully demonstrate how the project will prevent adverse impacts to surface water and groundwater quality before, during, or after construction. At a minimum, an applicant should demonstrate how a project will meet the standards outlined in the latest edition of the Vermont Soil Erosion Handbook.

2. Permitted Uses:

Except where otherwise noted herein, only the following uses are permitted within a wetland and its buffer zone subject to the requirements and limitations set forth below under Subpart 6.

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

B. "Accepted agricultural and silvicultural practices" as defined under 24 VSA Ch 117.

C. Normal maintenance of constructed wetlands and stormwater systems, provided that naturally occurring wetlands are not disturbed in conjunction with the maintenance;

D. Normal maintenance of existing roads, rail lines, bridges, and culverts provided that disturbance to naturally occurring wetlands and shorelands is minimized in conjunction with such maintenance;

E. Selective cutting of less than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle; and,

F. Recreational and educational activities such as fishing, walking, hiking, nature study, and bird watching.

3. Prohibited Uses:

Except where noted herein, the following uses shall be prohibited within a wetland and its buffer zone.

A. The deposition or introduction of organic and inorganic chemicals, including pesticides, except when the application of pesticides is reviewed and approved by the BCB and DRB, and performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of controlling invasive species and subject to the requirements of the City's pesticide application ordinance (Burlington Code of Ordinances, Chapter 17, Section 9); and,

B. The off-road use of any motorized vehicles including ATVs or dirt bikes (the temporary use of motorized construction vehicles used to construct permitted or

regulated activities in the wetland are specifically exempted from this prohibition) ;

4. Conditional Uses:

Except where noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including the list of activities below, may be approved within a wetland and its buffer zone after review and approval pursuant to the Conditional Use Review provisions of Article 3 and subject to the requirements and limitations set forth below under Subpart 6 below.

A. The construction of buildings or other structures, and roads, parking areas or other impervious surface;

B. Any form of drainage, dredging, excavation, or removal of material either directly or indirectly;

C. Alteration or modification of natural drainage patterns, natural features and contours;

D. Installation of docks, rip-rap or other shoreline stabilization features;

E. Installation of utility poles or utility service lines, underground pipes or cable conduits, and wells;

F. Cutting of greater than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle;

G. Construction, expansion or placement of any structure;

H. Construction or expansion of roads, rail lines parking areas, trails, and sidewalks;

I. Introduction of any form of pollution, including but not limited to the installation of a septic tank, the running of a sewer outfall, or the discharge of sewage treatment effluent or other liquid wastes into or so as to drain into a wetland;

J. The construction of a stormwater outfall as part of a stormwater management plan approved by the city engineer. In making determinations and decisions required herein, the city engineer shall consider the requirements of the most recent State of Vermont Stormwater Management Rules and Guidance document. The city engineer shall require the best practicable means be used to manage stormwater and prevent erosion and control sediment and the city engineer is hereby authorized to develop performance standards to ensure conformance with these state stormwater management rules; and,

K. Application of pesticides performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of controlling invasive species and subject to the requirements of the City's pesticide application ordinance (Burlington Code of Ordinances, Chapter 17, Section 9). In no other cases shall pesticides be applied.

5. Prohibited activities in a vernal pool and buffer zone:

Except where noted herein, the following uses shall be prohibited within a vernal pool and its respective buffer.

A. Any activities which disturb the area within 100 feet of a vernal pool, including, but not limited to timber harvesting, disturbance of the understory vegetation, pesticide or herbicide application, the erection of fences or other barriers to amphibian dispersal, barriers and any other type of human activities that disturb the vegetation or water quality in the pool and buffer.

6. Criteria for Review

In granting, denying, or conditioning any permit involving a wetland, vernal pool or respective buffer zone, the DRB, in consultation with the conservation board, will consider the project's impact on the functions and values of the wetland, and the measures that the applicant has incorporated into the project to avoid and minimize impacts. The DRB shall only approve a project having an impact on a wetland or wetland buffer zone if an applicant can demonstrate that any adverse impact is de minimus on the significant functions and values of the wetland including:

A. Water storage for floodwater and stormwater;

B. Erosion and sedimentation control through binding and stabilizing the soil or shoreline;

C. Surface water and groundwater protection, including sediment and toxicant retention, nutrient retention and transformation, and groundwater discharge and recharge;

D. Fisheries habitat;

E. Wildlife habitat;

F. Examples of natural community types that are exemplary, rare, or make an important contribution to the natural heritage of Burlington and Vermont;

G. Habitat for rare, threatened and endangered species;

H. Education and research in natural sciences;

I. Recreational and economic benefits; and,

J. Open space and aesthetics.

In addition, the review of a project having involving a wetland or wetland buffer zone shall also be subject to the following requirements and limitations:

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

L. No new stormwater outfall shall directly discharge into surface water without approval and implementation of a stormwater management plan approved by

the city engineer;

M. No installation of docks, rip-rap or other shoreline stabilization features shall be installed without review approval by the city engineer;

N. Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of Water Quality; and,

O. Stormwater management, erosion, and sedimentation control plans shall be submitted for review by the conservation board who shall consult with the development review board and city engineer prior to issuance of a recommendation to the city engineer who shall render a final decision on such plans.

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

(e) District Specific Regulations: Natural Areas Zone:

1. Additional Application Requirements

The following information shall be submitted in addition to the applicable requirements of Article 3 for any development involving a natural area or associated buffer zone:

A. The boundaries of a Natural Area shall be determined in the field by a qualified professional field naturalist with expertise in feature delineation and surveyed by a licensed land surveyor or other qualified individual. The identification and delineation must be performed within a five-year period prior to submission and acceptance of a complete zoning application;

B. A report shall be prepared addressing the proposed project's impact on the natural areas functions and values, and the measures that the applicant has incorporated into the project to avoid and minimize impacts; and,

C. A site plan that shall include delineated Natural Area boundaries and the associated buffer zone with respect to the overall footprint of the construction area/zone of disturbance.

2. Permitted Uses:

Except where otherwise noted herein, only the following uses are permitted within a natural area and its buffer zone subject to the requirements and limitations set forth below under subpart 5.

A. Normal maintenance of constructed wetlands and stormwater systems, provided that naturally occurring wetlands are not disturbed in conjunction with the maintenance;

B. Normal maintenance of existing roads, bridges, and culverts provided that disturbance to naturally occurring wetlands and shorelands is minimized in conjunction with such maintenance;

C. Selective cutting of less than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle; and,

D. Recreational and educational activities such as fishing, walking, hiking, nature study, and bird watching.

3. Prohibited Uses:

Except where noted herein, the following uses shall be prohibited within the Natural Area and its associated buffer.

A. The deposition or introduction of organic and inorganic chemicals, including pesticides, except when the application of pesticides is reviewed and approved by the BCB and DRB, and performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of controlling invasive species and subject to the requirements of the City's pesticide application ordinance (Burlington Code of Ordinances, Chapter 17, Section 9); and,

B. The off-road use of any motorized vehicles including ATVs or dirt bikes (the temporary use of motorized construction vehicles used to construct permitted or regulated activities in the wetland are specifically exempted from this prohibition) ;

4. Conditional Uses:

Except where noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including the list of activities below, may be approved after review and approval pursuant to the Conditional Use provisions of Article 3 and subject to the requirements and limitations set forth below under subpart 5.

A. The construction of buildings or other structures, and roads, parking areas and any other impervious surfaces;

B. Land disturbing activities (i.e., vegetation has been removed, or the landscape has been graded or filled resulting in bare soil surfaces) not associated with a permitted or conditionally permitted use. Land disturbing activities which expose 5,000 or more square feet of soil (i.e., vegetation has been removed, or the landscape has been graded or filled resulting in bare soil surfaces) are prohibited except where a stormwater management, erosion prevention and sediment control plan has been reviewed by the Burlington Conservation Board and approved by the city engineer;

C. Any form of drainage, dredging, excavation, or removal of material either directly or indirectly;

D. Alteration or modification of natural drainage patterns, natural features and contours;

E. Installation of docks, rip-rap or other shoreline stabilization features;

F. Installation of utility poles or utility service lines, underground pipes or cable conduits, and wells;

G. Cutting of greater than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle;

H. Construction, expansion or placement of any structure;

I. Construction or expansion of existing roads, parking areas, trails, and sidewalks;

J. Introduction of any form of pollution, including but not limited to the installation of a septic tank, the running of a sewer outfall, or the discharge of sewage treatment effluent or other liquid wastes into or so as to drain into a wetland;

K. The construction of a stormwater outfall as part of a stormwater management plan approved by the city engineer. In making determinations and decisions required herein, the city engineer shall consider the requirements of the most recent State of Vermont Stormwater Management Rules and Guidance document. The city engineer shall require the best practicable means be used to manage stormwater and prevent erosion and control sediment and the city engineer is hereby authorized to develop performance standards to ensure conformance with these state stormwater management rules;

L. Application of pesticides performed by an applicator certified by the Vermont Department of Agriculture for the sole purpose of controlling invasive species and subject to the requirements of the City's pesticide application ordinance (Burlington Code of Ordinances, Chapter 17, Section 9). In no other cases shall pesticides be applied; and,

M. Agricultural and silvicultural activities following Best Management Practices for the Protection of Water Quality including but not limited to housing of livestock, manure storage, pasturing livestock, growing crops, and compost storage, but excluding residential backyard compost storage.

5. Criteria for Review

In granting, denying, or conditioning any permit, the DRB, in consultation with the Conservation Board, will consider the significant functions and values of the natural area, the project's impact on the significant functions and values, and the measures that the applicant has incorporated into the project to avoid and minimize impacts. The DRB shall only approve a project having an impact on a natural area or its associated buffer zone if an applicant can demonstrate that any adverse impact is de minimus on the significant functions and values of the natural area including:

A. Water storage for floodwater and stormwater;

B. Erosion and sedimentation control through binding and stabilizing the soil or shoreline;

C. Surface water and groundwater protection, including sediment and toxicant retention, nutrient retention and transformation, and groundwater discharge and recharge;

D. Fisheries habitat;

E. Wildlife habitat;

F. Examples of natural community types that are exemplary, rare, or make an important contribution to the natural heritage of Burlington and Vermont;

G. Habitat for rare, threatened and endangered species;

H. Education and research in natural sciences;

I. Recreational and economic benefits; and,

J. Open space and aesthetics.

(f) District Specific Regulations: Special Flood Hazard Area:

1. Additional Application Requirements

The following information shall be submitted in addition to the applicable requirements of Article 3 for any development proposed within a Special Flood Hazard Area:

A. Base flood elevation data for all subdivision proposals and other proposed new developments containing more than fifty (50) lots or covering more than five (5) acres;

B. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new construction or substantial improvements of structures;

C. Confirmation if such structures contain a basement; and

D. The elevation, in relation to mean sea level, to which any structure has been flood proofed.

E. A Vermont Agency of Natural Resources Project Review Sheet for the proposal should be filled out. The Project Review Sheet should identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the City permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer and attached to the permit application before work can begin.

In addition, the DRB shall require of the applicant any of the following information deemed necessary for determining the suitability of the particular site for the proposed use:

F. Plans in triplicate, drawn to scale, showing the location, dimensions, contours and elevation of the lot; the size and location on the site of existing and/or proposed structures, fill or storage of materials; the location and elevations of streets, water supply and sanitary facilities; and the relationship of the above to the location of the channel, floodway and base flood elevation where such information is available;

G. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel and cross-sectional areas to be occupied by the proposed development;

H. A profile showing the slope of the bottom of the channel or flow line of the stream; and

I. Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavation or drilling, channel improvement, storage of materials, water supply and sanitary facilities.

2. Permitted Uses in Floodway Areas

The following open land uses shall be permitted within the floodway areas to the extent that they are permitted or conditionally permitted in the underlying zoning district, and provided that they do not require the erection of structures or storage of materials and equipment, the borrowing of fill from outside the floodway area, or channel modification or relocation, and do not obstruct flood flows, nor result in any increase in flood levels during the occurrence of the base flood discharge, decrease the water-carrying capacity of the floodway or channel, or increase off-site flood damage potential:

A. Agricultural uses, such as general farming, pasture, orchard, and grazing, outdoor plant nurseries, truck farming, and forestry;

B. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites; and/or

C. Accessory residential uses, such as lawns, gardens, and parking areas.

3. Permitted and Conditional Uses in Special Flood Hazard Areas (including Floodway areas)

A. All those permitted open space uses as listed in Section 4.5.4.(f).2 above shall be permitted in the Special Flood Hazard Areas.

B. All other uses permitted in the underlying zoning district are permitted only upon the granting of a conditional use by the DRB as per Article 3.

4. Permitted Accessory Uses in Special Flood Hazard Areas (Including Floodway areas)

Uses customarily accessory and incidental to any of the permitted uses listed in underlying zoning district may be permitted, subject to the limitations therein.

5. Mandatory DEC Notification and 30-Day Review Period

A. Prior to issuing a permit a copy of the application and supporting information shall be submitted by the administrative officer to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following

receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

B. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the VT National Flood Insurance Program Coordinator.

C. No permit may be granted for new construction, substantial improvement, filling, installation of a residential structure, or the development of land in any area designated as a floodplain by the Federal Emergency Management Agency (FEMA) prior to the expiration of a period of thirty (30) days following the submission of the application and a report to the Department of Environmental Conservation. The application and report shall describe the proposed use, the location requested and an evaluation of the effect of such proposed use on Burlington's municipal development plan and the regional plan, if any.

D. The subsection shall not be applicable to public utility generating stations and transmission lines which shall require the issuance of a certificate of public good under 30 V.S.A. Sec. 248 prior to any land filling or construction.

6. <u>Evaluation</u>

In reviewing the application, the DRB shall consider the evaluation of the Department of Environmental Conservation and shall determine that the proposed use will conform to the development standards of subpart 7 below.

7. <u>Special Review Criteria</u>

In reviewing each application, the DRB shall assure that the flood-carrying capacity within any portion of an altered or relocated watercourse is maintained and shall consider:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments;

B. The danger that material may be swept on to other lands or down stream to the injury of others;

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

E. The importance of the services provided by the proposed facility to the community;

F. The availability of alternative locations not subject to flooding for the proposed use;

G. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

H. The relationship of the proposed use to the municipal development plan;

I. The safety of access to the property in times of flood of ordinary and emergency vehicles;

J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood-waters expected at the site; and,

K. Conformance with all other applicable requirements of this ordinance.

8. <u>Approval Conditions</u>

Upon consideration of those factors in subpart 7 above and the purposes of these regulations, the DRB shall attach the following conditions to any permit it chooses to grant.

In **Floodway Areas** such conditions require that:

A. Along watercourses with a designated Floodway no encroachments, including fill, new construction, substantial improvements and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

B. The flood-carrying capacity within any altered or relocated portion of a watercourse shall be maintained;

In all **Special Flood Hazard Areas** (including Floodway areas) such conditions require that:

C. All development:

(i) New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:

1. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
2. Constructed of materials resistant to flood damage;
3. Constructed by methods and practices that minimize flood damage; and
4. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(ii) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;

(iii) All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;

(iv) All new construction and substantial improvements that have fully enclosed areas below the lowest floor shall:

1. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
2. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings of two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;

(v) All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.

D. Residential Development:

(i) All new and substantially improved residential structures within Special Flood Hazard Area have the lowest floor, including basement, elevated one foot or more above, the base flood elevation;

(ii) All new, replacement or substantially improved manufactured homes in the Special Flood Hazard Area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood. The manufactured home may be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation OR so that the lowest floor is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than one foot in height above the base flood elevation.

E. Non-Residential Development:

(i) All new construction and substantial improvements for nonresidential purposes shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. Existing non-residential structures may be flood proofed where designed to be watertight to one foot or more above the base flood elevation, with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a proposed building to be flood proofed shall not be issued until a registered architect or engineer has reviewed the structural design, specifications and plans and has certified that the design and methods of construction are in accordance with meeting the provisions of this subsection.

F. Water Supply Systems:

New and replacement water supply and sanitary sewer systems shall be designed so as to prevent the infiltration of floodwaters into the systems and discharge from the systems;

G. On-Site Waste Disposal Systems:

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

H. Recreational Vehicles:

Recreational Vehicles placed on sites with special flood hazard areas shall either:

(i) be on the site for fewer than 180 consecutive days, or
(ii) be fully licensed and ready for highway use, or
(iii) be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Sec. 4.5.4 (f).8.(D).

9. Records

The administrative officer shall maintain a record of:

A. All permits issued in areas covered by this bylaw;

B. An Elevation Certificate with the as-built elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement in the Special Flood Hazard Area; and

C. The elevations, in relation to mean sea level, to which existing structures have been flood-proofed.

D. Any certification of floodproofing.

10. Variances

Variances to the above standards may be granted in writing by the DRB only in accordance with Article 12 and 44 CFR Section 60.6, and after a hearing noticed in the same manner as for a conditional use.

A. Review Criteria.

A decision in favor of the appellant shall be granted if all the following facts are found, and the supporting findings are specified in the decision. The variance, if authorized shall be issued by the DRB only upon:

(i) determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(ii) determination that the variance will not result in increased flood heights, increased susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense;

(iii) the variance will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others; and,

(iv) the variance if granted will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan;

B. Notice to Applicant.

Upon request for a variance the administrative officer shall notify the applicant in writing over the signature of the zoning administrator or his/her designee that:

(i) The issuance of a variance to construct a structure below the base flood elevation will result in increased flood insurance premium rates up to amounts as high as $25 for $100 of coverage; and

(ii) Such construction below the base flood elevation increases risks to life and property.

C. Annual Recording.

The administrative officer shall:

(i) Maintain a record of all variance actions, including justification for their issuance; and

(ii) Report such variances issued in its annual report

11. <u>Warning of Disclaimer of Liability</u>

These regulations do not imply those areas outside the flood hazard area or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of any city official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

Sec. 4.5.5 RL Larger Lot Overlay District

(a) Purpose:

The RL Larger Lot Overlay District is intended to maintain the existing residential development pattern of larger residential lots reflective of the respective neighborhoods' development history.

(b) Areas Covered:

The RL Larger Lot Overlay District includes those portions of the RL Zoning District as delineated on Map 4.5.5-1 RL Larger Lot Overlay District.

Map 4.5.5–1: RL Larger Lot Overlay

(c) District Specific Regulations: RL Larger Lot Overlay

1. Minimum Lot Size and Density

The density and intensity of development and dimensions of building lots in the RL Larger Lot Overlay shall be modified from the underlying RL or RL-W standards of Table 4.4.5- and 4.4.5-2 as follows:

Table 4.5.5-1: Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay

	Minimum Lot Frontage[1] *(In linear feet)*	**Minimum Lot Size** *(In square feet)*	**Maximum dwelling units per acre**[2] *(without bonuses or any Inclusionary Zoning allowances)*
Single detached dwelling	75 feet	9,900 sqft	4.4 units/acre
Duplex and above	100 feet	15,840 sqft	5.5 units/acre
The DRB may adjust the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street. Inclusive of new streets but exclusive of existing streets.			

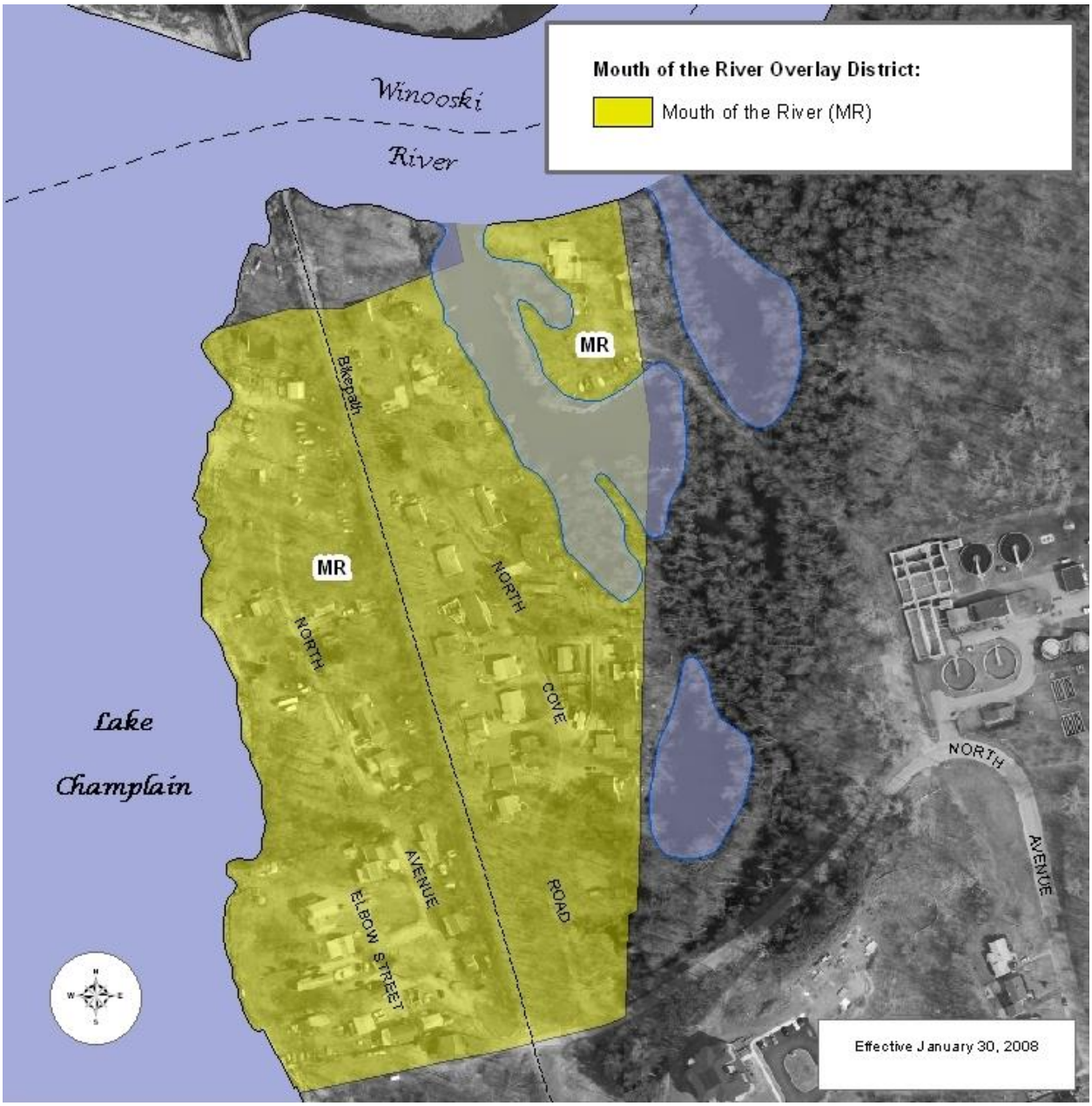
Sec. 4.5.6 Mouth of the River Overlay District

(a) Purpose

The Mouth of the River Overlay District is intended to support the continuation of small-scale non-residential marine and recreational uses.

(b) Areas Covered.

The Mouth of the River Overlay District includes those portions of the RL Zoning District as delineated on Map 4.5.6-1.



Map 4.5.6–1: Mouth of the River Overlay

(c) District Specific Regulations: Mouth of the River Overlay:

1. Uses

A. Exception for Non-Residential Marine and Recreational Uses.

Small-scale non-residential marine and recreational uses in the Mouth of the River Overlay shall be allowed as follows:

(i) The following non-residential marine and recreational uses shall be permitted as follows:

Use	Permitted – Y Conditional - CU
Bicycle Sales/Repair	Y
Boat Sales/Rentals	Y
Café	Y
Marina	CU

(ii) In addition to the requirements of (i) above, non-residential uses less than 2,000 sqft shall be treated as a permitted use. Non-residential uses greater than or equal to 2,000 sqft but less than 4,000 sqft shall be treated as a conditional use. Non-residential uses occupying 4,000 sqft or more shall not be permitted;

(iii) Non-residential uses shall be limited to a single story on the ground level of any structure;

(iv) The sale of fuel shall be prohibited;

(v) Boats for sale or rent, and those accommodated for marine services shall be limited to no more than 25 feet in length;

(vi) Hours of operation shall be limited to 6:00am to 11:00pm seven days per week;

(vii) All building height, coverage, and setback requirements for the underlying residential district shall apply;

(viii) Any exterior changes to the building(s) or changes to the site plan shall be subject to the design review requirements of Article 6;

(ix) To the extent that additional parking is required, the parking standards for Shared-Use Districts shall apply pursuant to Article 8;

(x) Home occupations as defined and regulated under this article are not restricted by the provisions of this section; and,

(xi) Any aspect of a neighborhood commercial use in lawful existence as of January 1, 2007 not in strict conformance with the above standards shall be considered non-conforming and be subject to the provisions of Article 5, Part 3.

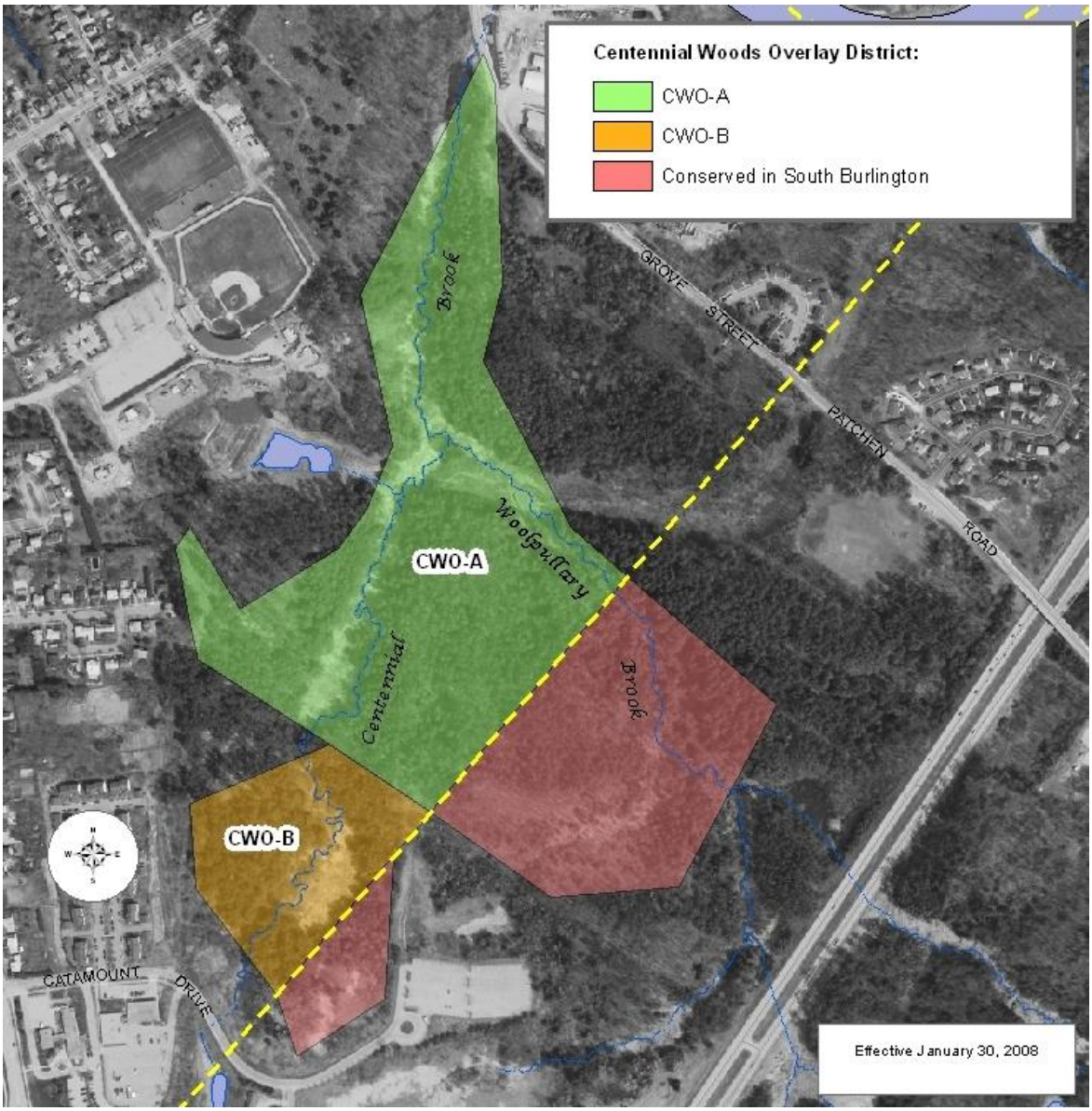
Sec. 4.5.7 Centennial Woods Overlay District

(a) Purpose:

The Centennial Woods Overlay District is intended to provide for educational, institutional and accessory uses, as well as a diversity of passive and active recreational opportunities and other urban green spaces that provide for public use and enjoyment.

(b) Areas Covered:

The Centennial Woods Overlay District includes those portions of the Institutional (I) and RCO-Recreation/Greenspace (RCO-RG) zoning districts as delineated on Map 4.5.7-1.



Map 4.5.7–1: Centennial Woods Overlay

(c) District Specific Regulations: Centennial Woods Overlay:

1. Uses

A. Exception for Educational Uses.

All permitted and conditionally permitted uses in the underlying zoning districts as provided in Appendix A – Use Table shall apply with the following exceptions for educationally-related uses:

Use	CWO-A	CWO-B
Dormitory	Y	CU
Sorority/Fraternity	N	CU
Office - General	Y	CU
Recreational Facility - Indoor	Y	CU
Recreational Facility -Outdoor	Y	CU
Research Lab	Y	CU
School - Post-Secondary & Community College	Y	CU

ARTICLE 5: CITYWIDE GENERAL REGULATIONS

Introduction: This Article of the Burlington Comprehensive Development Ordinance provides general development regulations that apply citywide and in all zoning districts unless otherwise modified by the specific district standards in Article 4.

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Sec. 5.0.0 Purpose

It is the purpose of this Article to provide general and citywide standards and regulation of land development that will promote the public health, safety, convenience, and welfare.

PART 1: USES AND STRUCTURES

Sec. 5.1.1 Uses

Except as otherwise provided by law or by this ordinance, no land or structure in any district shall be used or occupied except as specified under the provisions of this ordinance and the requirements of the zoning district in which such land or structure is located as specified in Article 4 and in Appendix A-Use Table.

(a) Preexisting Uses:

Any use lawfully existing as of the effective date of this ordinance shall be authorized to continue solely on the basis of the provisions of this ordinance.

(b) Preexisting Non-conforming Uses:

Pre-existing uses that do not conform to the requirements of this ordinance shall be subject to the provisions of Sec. 5.3.4.

(c) Permitted Uses:

A permitted use is allowed as of right in any district under which it is denoted by the letter "Y" in Appendix -.Use Table. Permitted uses are subject to such requirements as may be further specified in this ordinance such as but not limited to dimensional and intensity limitations, performance and design standards, and parking requirements.

(d) Conditional Uses:

A conditional use is listed in any district where denoted by the letters "CU" in Appendix A - Use Table. Such uses may be permitted by the DRB only after review under the conditional use provisions provided in Article 3, Part 5, such further restrictions as the DRB may establish and such additional requirements as may be established by this ordinance such as but not limited to dimensional and intensity limitations, performance and design standards, and parking requirements.

(e) Uses Not Permitted:

A use in any district denoted by the letter "N," or any use not listed, shall not be allowed in any zoning district unless the administrative officer determines that the use is substantially equivalent in use, nature, and impact to a listed permitted or conditional use.

(f) Principal Uses:

Only one principal use shall be permitted on any lot in any residential zoning district unless otherwise expressly authorized pursuant to another provision of this ordinance including Article 11 – Planned Development. In all other districts, more than one principal use may be permitted on any single lot.

(g) Accessory Uses:

1. Accessory Dwelling Units. Accessory dwelling units as mandated by 24 VSA 4412 (1)(E) shall be regulated as set forth in Sec. 5.4.5 hereof.
2. Accessory Residential Uses: Except as specified in 1 above and subject to the restrictions of 3 below, accessory residential uses shall also be governed by Sec. 4.4.5(d)4.
3. Other Accessory Uses. Except as specified in 1 above, any use may be an accessory use provided in Article 3, Part 5 provided each of the following standards are present:
   A. The accessory use is subordinate and customarily incidental to the principal use;
   B. The accessory use is reasonably necessary to the conduct of the principal use;
   C. Except for home occupations as regulated by Sec. 5.4.6, no accessory use, or combination of accessory uses, shall occupy more than twenty-five (25%) per cent of the total gross area dedicated to the principal use;
   D. The accessory use shall not include the outdoor storage of more than one unregistered vehicle;
   E. The accessory use does not result in, or increase the extent of, any pre-existing non-conformity or violation of the provisions of this ordinance; and,
   F. The combination of uses on any given property shall meet all of the other provisions of this ordinance.

(h) Temporary Uses

The administrative officer may approve a temporary use that is incidental and accessory to a principal use subject to the following:

No Review or Permit Required	Site Plan Review: Zoning Permit & COA	Review as per Underlying Zoning
A use in place for up to 10 consecutive days or 30 days within any 12-month period at the same location.	A use in place from 11-31 consecutive days or 31-60 days within any 12 month period at the same location.	A use in place for over 31 consecutive days or more within any 12 month period at the same location, is no longer considered a temporary

		use.

(i) Temporary Uses Incidental to Development

The administrative officer may issue a zoning permit for a temporary use that is incidental and accessory to the development or redevelopment of a building and/or site, and where reasonably required for such development activity. Such permits for temporary uses shall not be issued for a period in excess of ninety (90) days in any consecutive twelve (12) month period unless such uses would otherwise conform to the applicable provisions of this ordinance.

Sec. 5.1.2 Structures

Except as otherwise provided by law or by this ordinance, no structure in any district shall be created, removed or altered except in conformance with the provisions of this Article and the requirements of the district in which such land or structure is located.

(a) Preexisting Structures:

Any preexisting structure lawfully existing as of the effective date of this ordinance shall be authorized to continue solely on the basis of the provisions of this ordinance.

(b) Preexisting Non-conforming Structures:

Pre-existing structures that do not conform to the requirements of this ordinance shall be subject to the provisions of Sec. 5.3.5.

(c) Principal Structures:

Only one principal structure shall be permitted on any lot in any residential zoning district defined pursuant to Article 4 – Zoning Districts unless otherwise authorized pursuant to the requirements of Article 11 – Planned Development. In all other districts, more than one principal structure may be permitted on any single lot.

(d) Accessory Residential Structures:

An accessory structure customarily incidental and subordinate to a principal residential use shall also be governed by the provisions of Sec. 4.4.5(d)4.

(e) Accessory Nonresidential Structures:

An accessory structure customarily incidental and subordinate to a principal nonresidential use may be permitted provided the gross floor area of any accessory structure does not exceed five hundred (500) square feet or contain living space.

(f) Temporary Structures:

The administrative officer may approve a temporary structure that is incidental and accessory to a principal use subject to the following:

No Review or Permit	Site Plan Review:	Review as per

Required	Zoning Permit & COA	Underlying Zoning
A structure placed up to 10 consecutive days or 30 days within any 12-month period at the same location.	A structure placed from 11-31 consecutive days or 31-60 days within any 12 month period at the same location.	A structure placed over 31 consecutive days or more within any 12 month period at the same location, is no longer considered a temporary structure.
Tents used for recreational non-commercial camping purposes.		

PART 2: DIMENSIONAL REQUIREMENTS

Sec. 5.2.1 Existing Small Lots

Any small lot of record existing as of April 26, 1973 may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements if such lot is not less than four thousand (4,000) square feet in area with a minimum width and depth dimension of forty (40) feet.

A permit for any such development shall require a certificate of appropriateness pursuant to the design review provisions of Article 3 and the development standards of Article 6.

Sec. 5.2.2 Required Frontage or Access

No subdivision of land may be permitted on lots that do not have frontage on a public road or public waters.

For lots that have access on both a public road and public waters, only the access on a public road shall be considered for the frontage required under this ordinance.

For lots of record existing as of April 26, 1973, subdivision may be permitted with approval of the DRB, if access to such road or public waters exists by a permanent easement or right-of-way of at least twenty-five (25) feet in width.

Sec. 5.2.3 Lot Coverage Requirements

Where a maximum lot coverage is specified pursuant to the requirements of Article 4, no building or part of a building or impervious surface or other form of coverage shall exceed such maximum allowable except as specifically authorized by this ordinance.

(a) Calculating Lot Coverage:

Lot coverage shall be calculated in the following manner:

1. Compute the square footage of all parts of the lot, or portion of the lot where split by a zoning district boundary, covered by all buildings including accessory structures, decks, patios, paved or unpaved walkways and parking areas, and any other paved surface;
2. Add the square footage calculated in subsection (1) above to obtain a figure for total coverage; and,
3. Divide the total coverage calculated in subsection (2) above by the square footage of the entire upland portion of the lot to derive the percentage of lot coverage. Lot area inundated by water including streams, ponds, lakes, wetlands, and other bodies of water, shall not be included.

For more information and a description of lot coverage calculations please see the City of Burlington, Department of Planning and Zoning's Design Guide for Site Plans.

(b) Exceptions to Lot Coverage:

In all districts, the following shall not be counted as lot coverage:

1. Lawns, gardens and unpaved landscaped areas;
2. Drainage ways;
3. Open play structure without roofs, sand boxes, or swings, not located on a paved surface;
4. Fountains;
5. Swimming pools (Note: aprons, decks and walks adjacent to swimming pools shall be considered as lot coverage);
6. Fences;
7. Retaining walls less than eighteen (18) inches in width across the top surface; if eighteen(18) inches or greater, the entire top surface shall be considered as lot coverage; and,
8. Ramps for the disabled, for which the sole purpose is to provide access for the disabled, and which have no more than the minimum dimensions required to meet accessibility standards.

Sec. 5.2.4 Buildable Area Calculation

The intent of this section is to:

- To protect sensitive natural features;
- To prevent overdevelopment of properties that contain sensitive and unbuildable areas, and

- To ensure that new development fits within the existing scale and intensity of the surrounding neighborhood.

For any properties two (2) or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district, the maximum building density or lot coverage shall be calculated using the buildable area only. Buildable area shall be deemed to include only those portions of a property that are not inundated at least six months per year by water including streams, ponds, lakes, wetlands and other bodies of water; and lands with a slope in excess of 30%.

The DRB may under conditional use criteria allow up to 50% of the maximum building density or lot coverage to be calculated on lands with a slope between 15-30% if the applicant can demonstrate that the additional density or lot coverage will be compatible within the existing scale and intensity of the surrounding neighborhood, and not have an undue negative impact on sensitive natural features.

Sec. 5.2.5 Setbacks

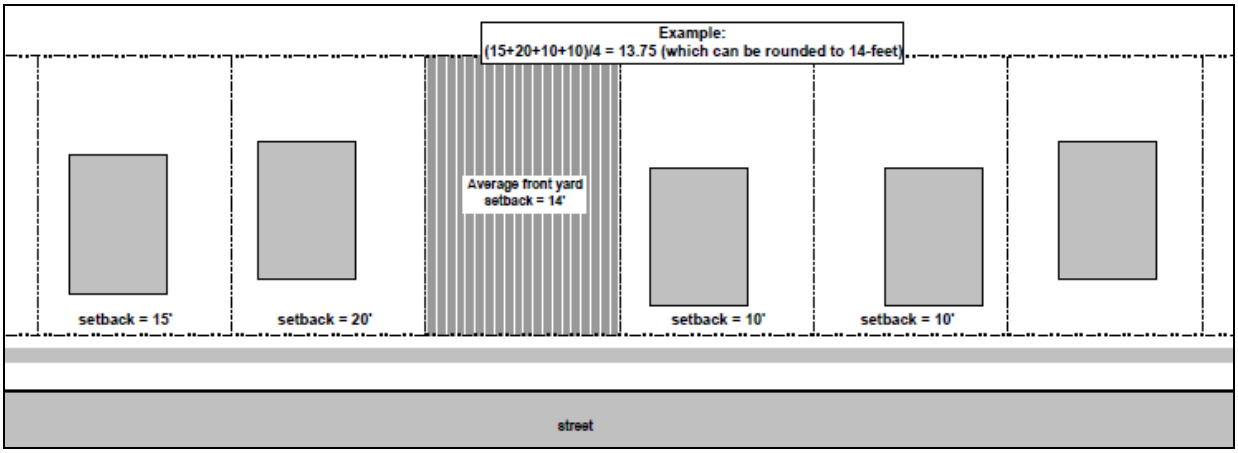
Setbacks between buildings and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street.

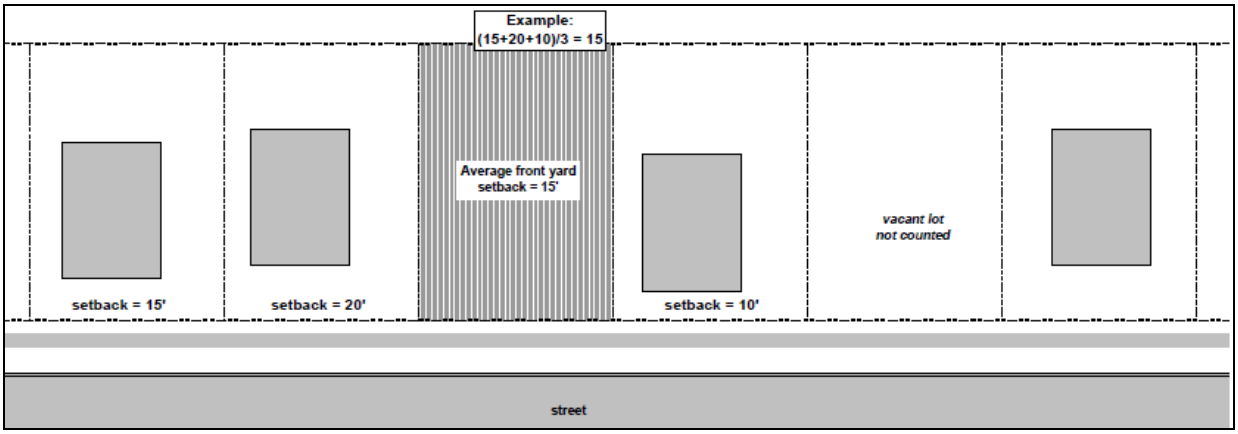
(a) Setbacks Required:

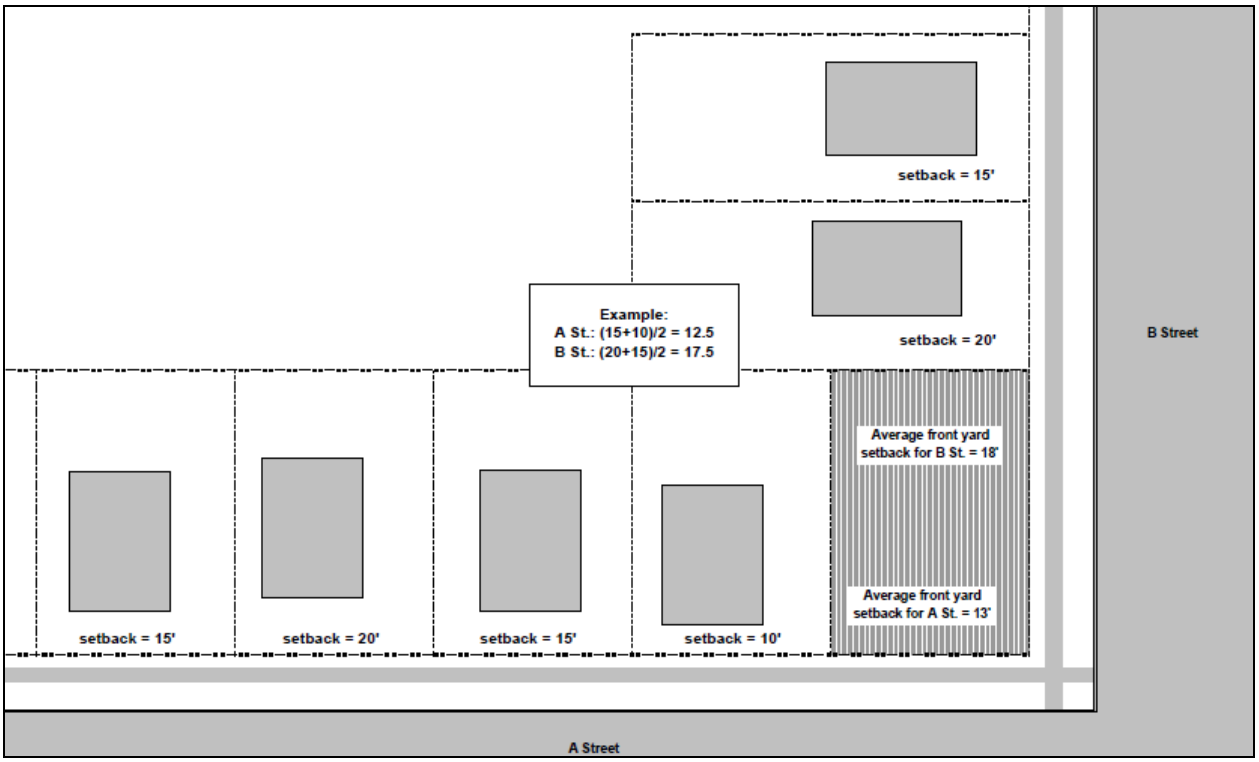
Unless otherwise authorized or specified under the district-specific provisions of Article 4, which shall be controlling over these provisions, a setback shall be provided between any proposed structures and/or site features, and the front, side and rear yard property lines as follows: (See Art. 13 for definitions of "setback" and "yard.")

1. Front yard. In order to maintain the existing pattern of development along a given street, both a minimum and maximum front yard setback shall be maintained where required under Article 4.

   A. The minimum front yard setback for any structure shall be the average of the front yard setback of principal structures in lawful existence as of the adoption of this ordinance on the two (2) neighboring lots on either side and within the same block and having the same street frontage.







B. The maximum front yard setback for any structure, if any is required, shall be a distance specified under the district-specific provisions of Article 4 permitted in addition to the minimum front yard setback specified above in order to allow for continued variation of the building pattern along the street.

C. Lots having frontage on more than one public street shall maintain a front yard setback on each public street except access alleys.

2. Side yard. The minimum side yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as a percent of the lot width, such width shall be measured parallel to

the lot frontage. Alternatively, where provided for under Article 4, the minimum side yard setback may be the average of the correlating side yard setbacks (i.e. left or right) of principal structures in lawful existence as of the adoption of this ordinance on the four (4) neighboring lots (2 on either side) and within the same block having the same street frontage.

3. Rear yard. Minimum rear yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as percent of the lot width, such width shall be measured perpendicular to the lot frontage.

(b) Exceptions to Yard Setback Requirements:

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. Abutting Building with Doors or Windows: Where the façade of an existing adjacent principal building is within 5 feet of the common property line and has either doors or windows, a setback of 10-feet shall be required for any new development up to the height of the abutting building in any district where no setback is required.
2. Building and Site Features. Eaves, sills, roof overhangs, cornices, steps to first floor entries, walkways, ramps for the disabled, fences, walls, and similar building and site features may project into a required yard setback.
3. Historic Building Features. Features of a historic building such as porches, additions, entries, bays and porticos that have been removed may be replaced and may project into required yard setbacks subject to the following:
   A. The structure is listed or eligible for listing on the State or National Register of Historic Places;
   B. The building feature being replaced was a character defining feature of the primary structure, can be documented to have previously existed, and is being replaced within the original footprint; and,
   C. The building feature replacement is completed in accordance with the standards for historic buildings contained in Sec. 5.4.8.
4. Accessory Structures and Parking Areas. Accessory structures no more than fifteen (15) feet in height, parking areas, and driveways may project into a required side and rear yard setback provided they are no less than five (5) feet from a side or rear property line where such a setback is required.
5. Swimming Pools. Swimming pools and related features, but not including structures, may project into a required side or rear yard setback provided that the water's edge is no less than five (5) feet, and any apron less than two (2) feet, from any property line.
6. Shared Driveways. Common or shared driveways and walkways along shared property lines and associated parking areas do not have to meet setback requirements along the shared property line.

7. Additional exceptions for nonconforming structures under Sec. 5.3.5.

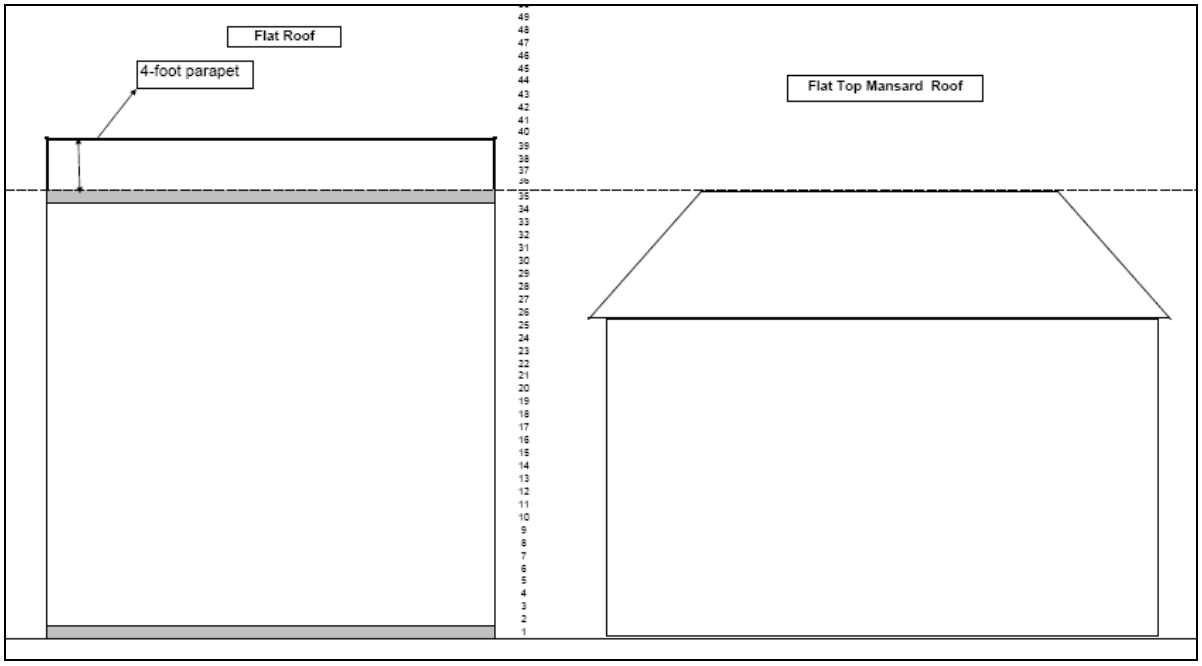
Sec. 5.2.6 Building Height Limits

No structure shall exceed thirty-five (35) feet in height unless otherwise authorized under the district-specific provisions of Article 4:

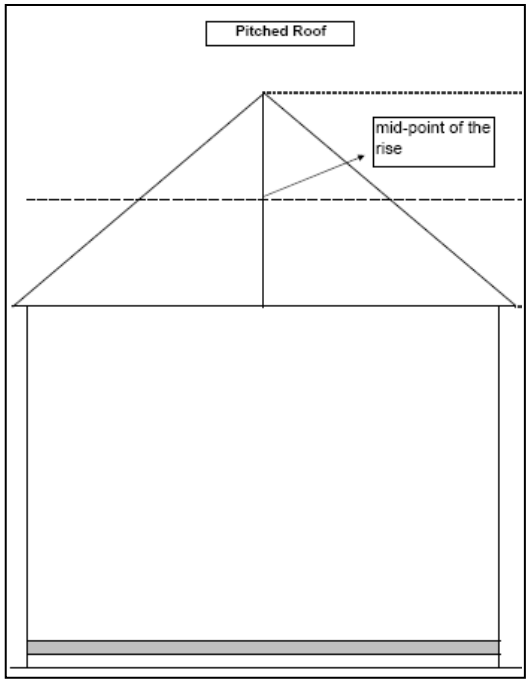
(a) Height Measurement:

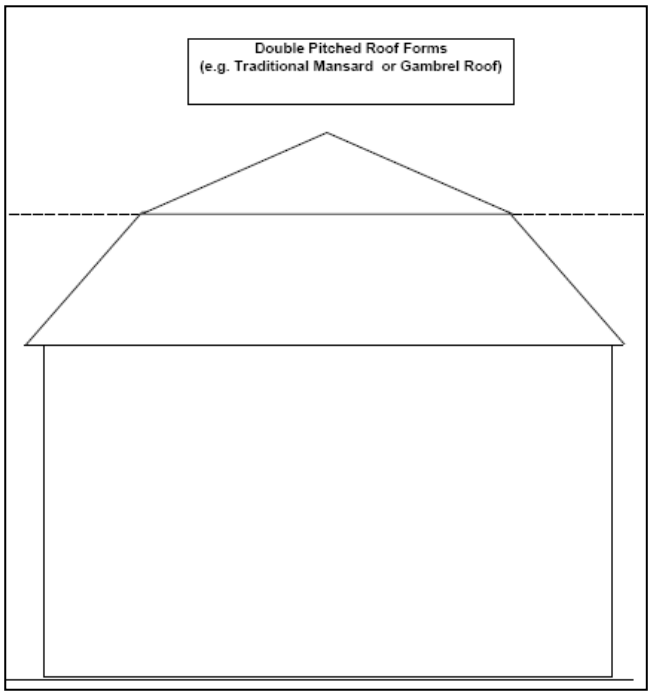
The maximum height of any building shall be measured as follows:

1. Starting Point: Building height shall be measured from:
   - A. a public sidewalk, alley, or other public way where it is within a 10-foot horizontal distance of an exterior wall on the front of the building; or,
   - B. the average finished grade within a 10-foot horizontal distance of all exterior walls of the building. In cases where a property line is within a 10-foot horizontal distance of an exterior wall, the average grade shall be measured between the property line(s).
2. Ending Point: Building height shall be measured to:
   - A. Flat Roof: the highest point of the decking of a flat or flat-topped mansard roof. A parapet no taller than four (4) feet shall not be considered part of a flat roof for the purposes of measuring building height;

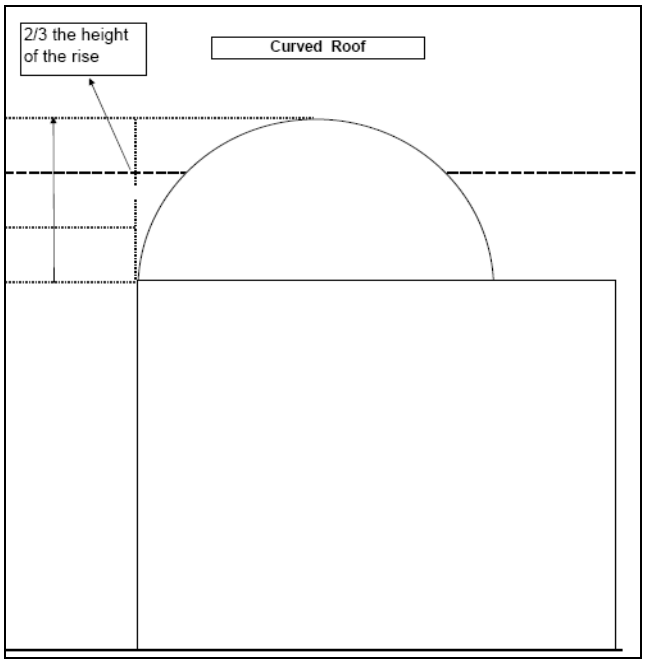


B. Pitched Roof: the midpoint of the rise between the roofplate and the ridge of the highest gable of a pitched or hipped roof. A double-pitched roof (e.g. gambrel or double-pitched mansard) shall be measured to the roofplate of the highest pitch; or,



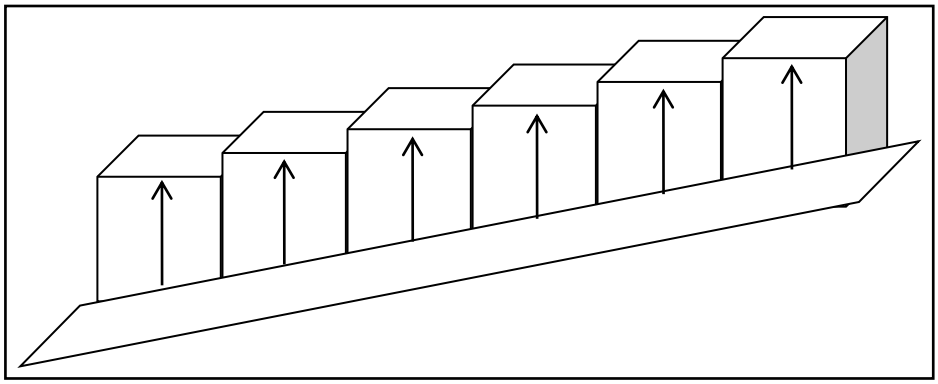


C. Curved Roof: a point two thirds (2/3) the vertical distance from the point at which an exterior wall varies from a 100% slope and to highest point of the roof.

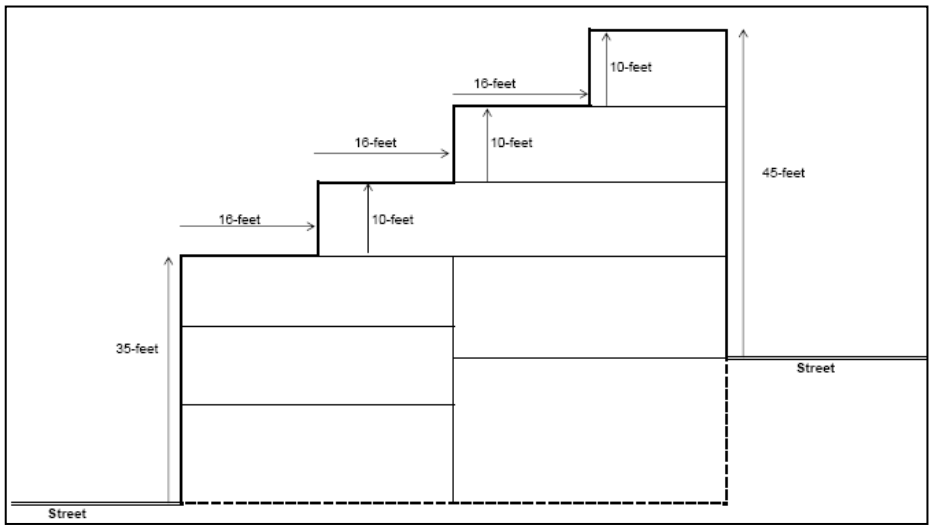


D. Other Roof Forms: Building height shall be measured as determined by the administrative officer in a manner that most closely reflects the intent of subsections (a) through (c).

3. Measurement Interval: To encourage a variation in building heights relative to terrain changes and encourage a variation in roof form, building height shall be measured along the street façade beginning no less than 16-feet or more than 32-feet from lowest corner, or where two streets intersect if a corner lot, and at an interval of no less than 32-feet or more than 65-feet for the entire length of the street façade (s).



4. Lots Fronting on Two or More Streets: Where a lot, other than a corner lot, fronts on two or more streets, the building height shall be measured along each street façade. Where the streets are at differing elevations, the building height may gradually increase above the maximum height allowed on the lowest street provided that any such additional height along the lowest street shall be set-back a minimum of 16-feet for every 10-feet of additional building height up to the maximum height allowed on the highest street.



5. Illustration: To illustrate height and bulk of the structure, the DRB may require the developer to prepare a scale model, computer visualization, illustrations, or other renderings of the proposed building in context with its surroundings.

(b) Exceptions to Height Limits

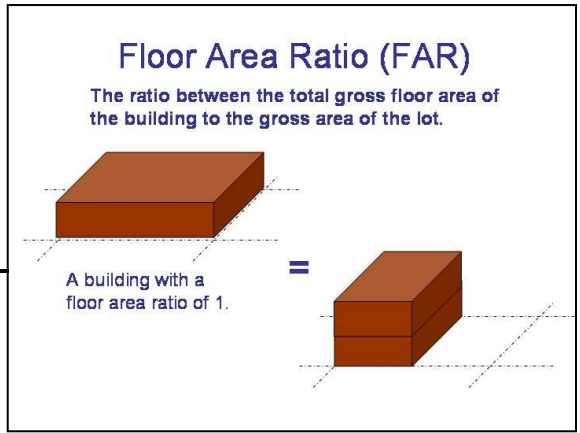
1. Additions and new construction on parcels that contain an existing structure exceeding thirty-five (35) feet in height as of January 1, 2008 may exceed thirty-five (35) feet subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing structure.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. Greenhouses, rooftop gardens, terraces, and similar features are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6.
4. Ornamental and symbolic features of buildings and structures, including towers, spires, cupolas, belfries and domes, where such features are not used for human occupancy or commercial identification, are also exempt from specific height limitations and shall be subject to the design review provisions of Art. 3 and 6. The footprint of such architectural features shall not exceed ten percent (10%) of the total roof area.
5. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.

Sec. 5.2.7 Density and Intensity of Development Calculations

(a) Dwelling Units per Acre:

In accordance with the district-specific provisions of Article 4, the calculation of development intensity shall be measured as follows in such cases where the intensity of development is measured on a dwelling unit per acre basis:

1. Density Calculation: The total number of dwelling units provided on a development site, or portion of the site where split by a zoning district boundary, shall be divided by the gross site area expressed in acres. In calculating the number of residential units permitted, fractional units of less than five-tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five-tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation for any development.
2. Density Equivalent, Nonresidential Uses: For purposes of density calculations, each one thousand, five hundred (1,500) square feet of nonresidential gross floor area not contained within a dwelling unit or within common hallways, stairwells and elevator shafts serving said dwelling units shall be counted as one dwelling unit.



(b) Floor Area Ratio:

In accordance with the district-specific provisions of Article 4 where the intensity of development is measured on a floor area ratio basis, the calculation of development intensity shall be measured by dividing the gross floor area of all structures on a site, or portion of the site where split by a zoning district boundary, by the gross site area.

PART 3: NON-CONFORMITIES

Sec. 5.3.1 Purpose

These regulations are enacted for the purpose of governing all aspects of nonconformity, regardless of whether it is a use, a structure or a lot. As defined under Article 13, nonconformity means a use, structure or lot that was legal at the time it was constructed or laid out, but would not be lawful under the requirements of this ordinance. This Part will also address "Bianchi-controlled Situations", in which a zoning violation may not subject to enforcement under the standards set forth by the Vermont Supreme Court in the case entitled *Bianchi v. Lorentz* and later codified in 24 VSA Sec. 4454.

In combination, these standards are intended to establish the property rights of individuals and organizations in a manner consistent with the overall goals of zoning and to promote the City's general health, safety, and welfare.

Sec. 5.3.2 "Bianchi" controlled uses, structures, and lots.

Although not subject to enforcement action pursuant to Article 2, uses, structures, and lots which are deemed to be controlled by the *Bianchi* decision, and the subsequent enactment of 24 VSA Sec. 4454, shall be considered violations that are not considered legal to any extent and shall in no event be granted the consideration or allowances of nonconforming structures, uses, and lots. Thus, no change, alteration, enlargement, and reestablishment after discontinuance for more than sixty (60) days or reconstruction after an occurrence or event which destroys at least 50% of the structure in the judgment of the city's building inspector shall be permitted, except to a conforming use, structure, or lot.

Sec. 5.3.3 Continuation

Except as otherwise specified in this Article, any nonconformity which lawfully existed at the time of passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this Part.

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)(7).

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)(6).

2. Nonconforming Residential Use:

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:

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. 4.4.5(d)(7);

B. Such an expansion does not increase the degree of non-conformity of any non-conforming structure; and,

C. In such cases where the non-conforming residential use is located in a zoning district where residential uses are generally permitted, expansion of a non-conforming residential use into an existing and previously uninhabited attic or basement within the principle structure may be permitted subject to administrative review provided no additional dwelling units are created.

(b) Discontinuance:

A nonconforming use shall not be re-established if such use has been discontinued for any reason for a period of one (1) year or longer. Provided, however, a period not in excess of two (2) years shall be the applicable standard for the re-establishment of discontinued uses in the Enterprise-Light Manufacturing (E-LM) district.

An extension to this time limit may be granted by the DRB after a public hearing and on the basis of documented evidence of a continuous good faith effort to re-establish the nonconforming use. Such evidence shall include but not be limited to application(s) to the DRB, bid documents, records of expenditures, newspaper advertisements, and/or real

estate listings. Any request for such an extension shall be submitted in writing prior to the expiration of the one (1) or two (2) year time limit as specified above.

Any extension approved by the DRB shall be made in writing and shall specify the date after which no nonconforming use will be permitted upon the subject property.

Sec. 5.3.5 Nonconforming Structures

(a) Changes and Modifications:

Nothing in this Part shall be deemed to prevent normal maintenance and repair or structural repair, or moving of a non-complying structure pursuant to any applicable provisions of this Ordinance.

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.

   Within the residential districts, and subject to Development Review Board approval, existing nonconforming single family homes and community centers (existing enclosed spaces only) that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

   i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);

   ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,

   iii) Be compatible with the character and scale of surrounding structures.

   Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

2. Such a change or modification shall not create any new nonconformity; and,
3. Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.

When any portion of a nonconforming structure has been made conforming, it shall not be made nonconforming again except as provided for historic building features pursuant to Sec. 5.2.6(b)(3).

A non-conforming residential structure may be enlarged up to the dimensional standards of the underlying zoning district, subject to review and approval by the DRB pursuant to Art. 3, Part 4 Design Review and Art. 3, Part 5 Conditional Use Review. Adaptive reuse or residential conversion bonuses may allow a greater expansion than the underlying zoning district allows approved per the provisions of Article 4.

(b) Demolition:

A nonconforming structure may be replaced by a new structure retaining the same degree of nonconformity as the original structure. This provision is limited to the existing dimensional nonconformity (i.e. setback, lot coverage, or height), and shall not expand the degree of nonconformity except as provided for in (a) above. The new structure shall be subject to conformance with all other dimensional requirements (i.e. setback, lot coverage, and height). Zoning permit application for the replacement structure shall be completed within 1 year of demolition of the nonconforming structure; failure to do so shall result in the loss of the ability to retain the nonconformity.

In all other cases, a nonconforming structure that has been demolished or moved shall not be re-built or relocated in any way other than in full conformance with the provisions of this ordinance. Structures or any portion thereof that are structurally unsound, and are required to be removed by order of the building inspector, may be replaced within the original footprint provided both the requirement to demolish the building is not the result of demolition by neglect and the replacement shall not expand the degree of nonconformity.

Sec. 5.3.6 Nonconforming Lots

Development may occur on a non-conforming lot only in the following manner:

(a) Existing Small Lots:

See Sec. 5.2.1.

(b) Required Frontage or Access:

See Sec. 5.2.2.

(c) Changes to a Nonconforming Lot:

No change shall be permitted to any nonconforming lot which would have the effect of increasing the density at which the property is being used, or increasing the structure located upon such lot, if the dimensional requirements and standards, including parking, of the underlying zoning district are not met as a result thereof. Any changes proposed on a non-conforming lot are subject to conditional use review. Allowance of adaptive reuse and residential conversion bonuses shall be an exception to the foregoing standards. A lot shall be considered nonconforming if there is not sufficient parking, as determined by the standards provided in Article 8. In such cases where a parking waiver or waivers may be or have been legally granted, such a waiver shall not be considered to increase the degree of non-conformity.

Sec. 5.3.7 Nonconforming Signs

Any sign or other advertising device which does not conform to the provisions of this ordinance in terms of location, area, illumination, type, or height shall be deemed a nonconforming sign. Nonconforming signs may remain in use at the same location and ordinary maintenance and repair of such signs shall be permitted. Specific provisions

regarding changes or modifications to non-conforming signs can be found in Article 7 - Signs.

Sec. 5.3.8 Rebuilding After Catastrophe

If the structure housing a nonconforming use or a nonconforming structure is damaged by fire, explosion, or other catastrophe, and no government investigation determines that the damage resulted from the owner's intentional conduct or gross negligence the use may be restored or the structure rebuilt subject to the following provisions:

(a) A zoning permit shall be obtained;

(b) Any restoration or rebuilding which results in a modification of exterior features or to the site plan shall be subject to the provisions of Art. 3, Part 4 – Site Plan and Design Review where applicable;

(c) A nonconforming use shall not be expanded in size or intensity beyond its extent prior to the catastrophe. If a nonconforming use is relocated and becomes operational in an area where it is a permitted use as a result of a catastrophe, it shall not be reestablished as a nonconforming use;

(d) Noncompliance, in terms of dimensional regulations or parking requirements, shall not be increased beyond what existed prior to the catastrophe and, where physically possible, shall come into compliance;

(e) If the structure is a nonconforming non-residential structure, determined to be 50% or more destroyed as determined by the City's building inspector, any reconstruction must be in full conformity with then existing zoning regulations, except that a building that is listed or eligible for listing on the National or State Registers of Historic Places may be reconstructed in accordance with the provisions of Secretary of the Interior's Standards for Rehabilitation, where such reconstruction is approved pursuant to the requirements of Art. 3, Part 5 Conditional Use Review; and

(f) Such restoration or reconstruction shall be completed within one year after such catastrophe unless extended in accordance with Sec. 5.3.4(b).

PART 4: SPECIAL USE REGULATIONS

The following regulations are use-specific requirements that shall apply in all cases where such uses are otherwise permitted or conditionally permitted pursuant to the provisions of Article 4. These regulations are in addition to, or may modify, other applicable provisions of these bylaws.

The following provide specific regulatory requirements for each use listed that shall apply in all cases where such uses are otherwise permitted or conditionally permitted pursuant to the provisions of Article 4.

Sec. 5.4.1 Small Day Care Center

In addition to the provisions of Art 3, Part 5 for conditional uses, and applicable site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a small day care center:

(a) No playground equipment shall be located within the front yard;

(b) No more than twenty (20) full-time children are to be served;

(c) The site plan review shall insure adequate and safe drop-off and pickup space is provided and that traffic problems are not created;

(d) Any additions, signage, or site improvements shall be residential in character;

(e) The facility shall be licensed or registered by the State of Vermont;

(f) No more than one residential unit may be converted for the creation of a single small day care center. Such a conversion shall be exempt from the requirements of Article 9, Part 2-Housing Replacement; and,

(g) The neighborhood is not overburdened with other day care centers.

Sec. 5.4.2 Historic Inns

In addition to the applicable provisions of Art 3, Part 5 for conditional uses, and site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a historic inn:

(a) Historic Building:

The principal building shall be listed or eligible for listing on the State or National Register of Historic Places, and located on a lot of record as of January 1, 2007 a minimum of one-half (1/2) acre (21,780 square feet) in size and located on a major street.

(b) Owner-Occupied:

In districts where a Historic Inn is a conditional use, the premises shall by occupied by a person as their primary residence who is an owner of the property or of the business. For purposes of this subsection only, an “owner” is defined as someone who holds, at least, a twenty-five (25%) percent ownership interest in the property or in the business.

(c) Guestrooms:

The maximum number of guestrooms allowed shall be based on an overall density of twelve (12) rooms per acre. In districts where a Historic Inn is a conditional use, the DRB may determine that a lesser number of rooms is appropriate, based on their consideration of the impact of the proposed use on neighboring properties and traffic on nearby streets.

(d) Exterior Modifications:

Any exterior modifications to the principal structure and changes to the site plan shall be subject to the development review standards for historic buildings in Sec 5.4.8.

(e) Dining Facilities:

Common dining facilities for overnight guests and their guests may be included where a Historic Inn is a permitted use. In districts where a Historic Inn is a conditional use, regular meals may be limited if so determined by the DRB based on their consideration of the impact of the proposed use on neighboring properties and traffic on nearby streets.

(f) Ancillary Events:

In districts where a Historic Inn is a permitted use, ancillary events are allowed. In districts where a Historic Inn is a conditional use, ancillary events may be permitted only at the discretion of the DRB based on their consideration of the impact of the proposed use on neighboring properties and traffic on nearby streets, and if so permitted shall be limited to indoor business meetings and meals in conjunction with those meetings for overnight guests and no more than four (4) invited guests.

(g) Parking:

1. The full setback requirements as for a new principal structure shall be applied to new parking areas in the RL districts; and,
2. All parking shall be adequately screened from neighboring properties and the public street.

Sec. 5.4.3 Convenience Stores

In addition to the applicable provisions of Art 3, Part 5 for conditional uses, and site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a convenience store:

(a) Access to a public street shall be limited to a width and location approved by the city engineer. In no case shall such access extend along the length of road frontage, or the nearest edge of any curb cut be located any less than 50 feet from any intersection between public streets. Shared access between adjacent properties is encouraged, and may be required subject to review and approval by the DRB in order to reduce congestion and improve safety;

(b) Where canopies are proposed over gas pump islands, it shall be reviewed under the site and development review standards in Art 6 to determine if such canopy is appropriate and, if so, its appropriate location, size, height, and design;

(c) No signs or fascia lighting may be placed on or within any pump canopy;

(d) No outside storage except for a screened dumpster, displays, or vending machines shall be allowed on the site. The term “vending machine” does not include pay telephones, air pumps, or vacuum machines;

(e) There shall be no exterior service windows or exterior ATMs allowed;

(f) There shall be a least one sidewalk dedicated exclusively for pedestrians from a public way/sidewalk to the store entrance; and,

(g) Gasoline Sales: Where permitted, the area for the sale of gasoline shall not exceed the lesser of 1,850 s.f. or 50% of the gross floor area of the enclosed convenience store. The area for the sale of gasoline is determined by the total square footage occupied by pumps, pump islands, and vehicular space(s) at a pump filling station.

Sec. 5.4.4 Community House

Community houses shall be considered a conditional use in any residential district and subject to all applicable provisions of Art 3, Part 5, and the site and design review standards in Art 6. In addition to conditional use standards, proposals for new community houses shall also comply with the following requirements:

(a) Density shall not exceed 1 person per two hundred (200) square feet of gross floor area;

(b) All dimensional standards for the underlying zoning per the requirements of Art. 4 shall be applicable; and,

(c) The minimum distance (lot line to lot line) between any two community houses shall not exceed the following:

Total Occupancy (beds)	Distance (feet)
6 or less	0
7 – 12	500
13 – 20	1,000
21 or more	1,500

Sec. 5.4.5 Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses:

Where there is a primary structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means an efficiency or one bedroom apartment that is clearly subordinate to the primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than 2 adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:

1. The property has sufficient wastewater capacity as certified by the department of public works;

2. The unit does not consist of more than 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;
3. Applicable setback and coverage requirements are met;
4. One additional parking space which may be legally allocated to the accessory unit must be provided for the accessory unit; and,
5. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.

(b) Conditional Use Approval for Accessory Units:

If any of the following are also proposed, conditional use approval, as well as development review provisions of Article 6 shall be required:

1. A new accessory structure;
2. An increase in the height or habitable floor area of the existing dwelling;
3. An increase in the dimensions of any parking area;

(c) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

Sec. 5.4.6 Home Occupations

Pursuant to the requirements of 24 VSA 4412(4), it is the intent of these regulations to provide for the use of a minor portion of a dwelling unit for a home occupation and to ensure compatibility with other permitted uses and with the residential character of the neighborhood. Such a home occupation must clearly be secondary or incidental to the principal residential use, and so located and conducted that the average neighbor, under normal circumstances, would not otherwise be aware of its existence.

(a) Administrative Approval:

Home occupations may be approved by the administrative officer subject to the following:

1. A home occupation not located within a residential or institutional district;
2. A home occupation located in a residential or institutional district as follows:

A. Home occupations that are low impact office in nature and including design studios, using normal office equipment such as computers, calculators, telephone, fax machines, desks, drafting tables or other similar office furnishings;

B. No clients or customers come to the premises;

C. There shall be no vehicles associated with the home occupation except:

(i) A personal vehicle with no commercial identification can be used; and,

(ii) An occasional delivery vehicle such as a Postal Service, UPS, or FedEx truck, but excluding semi trailers or 18 wheel vehicles;

(iii) deliveries or pick-ups shall occur no more than an average of one (1) time per day between the hours of 8 am and 6 pm;

D. No goods are located on site except for samples or designs produced on site and no such samples or other materials associated with the home occupation may be stored outside of an enclosed structure;

E. All employees shall be residents of the home where the home occupation is conducted. No outside employees are allowed on the premises;

F. No more than 25%, up to 500 square feet, of a residence can be used for the home occupation; and,

G. No signs are allowed.

(b) Conditional Use Review:

All home occupations not otherwise eligible for administrative approval above shall require review and approval by the DRB pursuant to the requirements of Art. 3, Part 5. In addition to the conditional use criteria, the following criteria must be met for any home occupation:

1. A home occupation shall be conducted solely by resident occupants plus no more than one additional full-time equivalent employee in RL districts, and no more than two (2) full-time equivalent employees in other districts. The home occupation shall be conducted entirely within an existing dwelling unit and/or one enclosed accessory structure;
2. No more than thirty-five per cent (35%) of the floor area of said residence, including accessory structures, up to a maximum of seven hundred fifty (750) square feet, whichever is less, shall be used for such purpose;
3. No home occupation shall require alterations, construction or equipment that would change the fire rating of the structure or the fire district in which the structure is located;

4. There shall be no outside storage of any kind related to the home occupation;
5. There shall be no exterior evidence of the conduct of a home occupation except for:
   A. Occasional garage/lawn/yard type sales (up to twice a year not to exceed two (2) days each); and
   B. One non-illuminated attached parallel sign that shall not exceed two (2) square feet. No other signs shall be permitted.
6. No home occupation may increase vehicular traffic flow or parking by more than one additional vehicle at a time for customers or deliveries. All parking shall be located off-street and shall maintain the required front yard setback;
7. No home occupation shall create sounds, noise, dust, vibration, smell, smoke, heat, humidity, glare, radiation, electrical interference, fire hazard or any other hazard, nuisance or unsightliness which is discernible from any adjacent dwelling unit;
8. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part.
9. Delivery of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than once per day;
10. With the exception of one delivery per day, as specified in subparagraph (9), no more than one (1) commercial vehicle shall be allowed on the premises at any one time; and
11. There shall be no sale of goods except for goods fabricated on the premises as part of an approved home occupation.

(c) Exclusions:

Home occupations shall not include commercial stables or kennels, veterinary clinics, or similar establishments.

(d) Revocation:

Approval of a home occupation may be revoked by the DRB in accordance with the following provisions:

1. Noncompliance. Upon receipt of notification or evidence of noncompliance with conditions of approval or evidence of error or misrepresentation, the DRB may schedule a public hearing to consider the revocation or modification of approval for a home occupation;
2. Notice. The administrative officer shall duly warn such public hearing and give notice to the applicant, abutters, and other interested parties;
3. Public Hearing. The DRB shall hold a public hearing to hear cause as to why the approval of the home occupation should not be revoked. The DRB shall render its decision in accordance with the conditional use time limitations set forth in Article 3, Part 5; and

4. Errors. The burden of providing complete and accurate information shall be the sole responsibility of the applicant. Any error or misrepresentation may result in voiding or modification of the approval for a home occupation.

Sec. 5.4.7 Wireless Telecommunications Facilities

The purpose of these regulations are to promote the public health, safety, welfare, and convenience of the residents of the City of Burlington while accommodating the wireless telecommunication needs of the city's residents, businesses, and visitors. It is a further intent of these regulations to ensure that wireless telecommunication facilities be sited and designed in such as way as to minimize visual intrusion and ensure compatibility with the city's landscape and architectural features.

(a) Authority, Applicability and Exemptions:

These regulations shall govern the construction, alteration, development, decommissioning and dismantling of all wireless telecommunication facilities as defined in this ordinance.

These regulations shall be applicable in all zoning districts with the exception that the development of new wireless telecommunication facilities shall be prohibited in any RCO zoning district.

The provisions of this Section shall not be applicable, and no permit shall be required, for any of the following:

1. a wireless telecommunication facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service, and which does not exceed 50 feet in height.
2. a wireless telecommunication facility that is used solely for amateur (ham) radio activities, citizens-band radio, single-use local business radio dispatch, or television antennas for home use, and which does not exceed 50 feet in height.
3. a temporary wireless telecommunications facility. A temporary wireless telecommunications facility is one that is in use for no more than 5 consecutive days within a 60 day period.

(b) Submission Requirements:

In addition to the submission requirements of Article 3 for COA Level II applications, applications involving a wireless telecommunications facility shall also be required to submit the following additional information:

1. Construction sequence and time schedule for completion of each phase of the entire project;
2. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base;
3. A report from a qualified engineer that:

   A. Describes the facility's design and elevation;

B. Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a facility and the minimum distances between antennas;

C. Describes a facility's capacity, including the number, elevation and types of antennas that the facility is proposed to accommodate;

D. In the case of new facility, demonstrates that existing structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community;

E. Describes potential changes or additions to existing structures that would enable them to provide adequate coverage;

F. Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided;

G. Demonstrates the facility's compliance with the standards set forth in this bylaw or other applicable standards;

H. Provides proof that at the proposed facility will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR); and,

I. Includes such other information as determined by the administrative officer to evaluate the application.

4. A letter of intent committing the facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this ordinance and all other applicable laws;

5. In the case of an application for additional antennas or other equipment to be installed on an existing facility, a copy of the executed contract with the owner of the existing structure; and,

6. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required is not required for the facility.

(c) Independent Consultants:

An applicant may be required to pay the reasonable costs and fees incident to an independent technical review of the application. Upon submission of an application for a wireless telecommunications facility, the DRB may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in wireless telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields as determined by the DRB The consultant(s) shall work at the DRB's direction and shall provide the DRB such reports and assistance as are deemed necessary to the Board's review an application.

(d) Visual Impact Assessment:

The DRB may require the applicant to prepare a visual impact assessment such as a scaled model, computer visualization, and/or to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed wireless telecommunications tower.

If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test 7 days in advance of the test in a newspaper with a general circulation in the city. The applicant shall also inform the administrative officer, in writing, of the date, time, and location of the test, at least 15 days in advance of the test. The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the development review board.

(e) Conditional Use Approval:

All wireless telecommunications facilities as defined in this ordinance shall require conditional use review and approval by the DRB pursuant to the requirements of Article 3, Part 5. No conditional use permit relating to a wireless telecommunications facility shall be authorized by the DRB unless it finds that such facility:

1. Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities;
2. Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
3. Will be designed and constructed in a manner which minimizes its visual impact on the surrounding community to the extent practical including the extent to which the proposed facility has been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features;
4. Is the most appropriate site among those available within the technically feasible area for the location of a wireless telecommunications facility; and,
5. Is in conformance with all of the applicable development standards pursuant to Sec.5.4.7(f) below.

As part of its approval, the DRB may additionally require the following:

6. The Facility shall not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the DRB may require the applicant to provide a copy of a contract or letter of intent showing that a Wireless Telecommunication Service Provider is legally obligated to locate a Wireless Telecommunication Facility on lands owned or leased by the applicant;
7. The applicant shall maintain adequate insurance on the facility; and,
8. The facility shall be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The DRB may condition a permit on the provision of appropriate fencing and signage.

(f) Development Standards:

All wireless telecommunications facilities shall comply with the following development standards as applicable.

1. Co-Location/Location On Existing Structure

The shared use of existing wireless telecommunications towers or other structures shall be preferred to the construction of new facilities. Any conditional use permit application, renewal, or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing wireless telecommunications facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site. The applicant must demonstrate that the proposed wireless telecommunications facility cannot be accommodated on existing wireless telecommunications facilities due to one or more of the following reasons:

A. The planned equipment would exceed the structural capacity of existing and approved wireless telecommunications facilities or other structures, considering existing and planned use for those facilities;

B. The planned equipment would materially impact the usefulness of other equipment at the existing facility which cannot be reasonably prevented or cause radio frequency interference with other existing or planned equipment in violation of federal standards;

C. Existing or approved wireless telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

D. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures; or,

E. The property owner or owner of the existing wireless telecommunications facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.

2. Height Limitations

The height limit for all telecommunications facilities shall not exceed twenty-five (25) feet above the average height of the tree line within fifty (50) feet of the base of the tower in wooded areas; or, not exceed twenty-five (25) feet above the average height of surrounding buildings within five-hundred (500) feet of the base of the telecommunication facility in a developed area. This height limitation shall not apply to panel antennas or similar telecommunication equipment installed on existing structures where height shall be governed by the applicable provisions of Sec. 5.2.7.

3. Fall Zones

Wireless telecommunication towers shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other wireless telecommunications facilities.

4. Setbacks

Wireless telecommunications facilities shall comply with all existing setbacks within the underlying zoning district and any applicable overlay district.

5. Lighting

Facilities shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Notwithstanding, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the DRB, such a requirement would be of direct benefit to public safety. The board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location. The applicant must provide both standard and alternative lighting and marking plans for the board's review.

6. Engineering Standards

All wireless telecommunications facilities shall be built, operated, and maintained to acceptable industry standards. Each application including a wireless telecommunications tower must contain a site plan for the facility containing the signature of an engineer licensed by the State of Vermont.

Every facility shall be inspected at least every second year for structural integrity by a state-licensed engineer. A copy of the inspection report shall be submitted to the administrative officer and placed on file.

7. Residential Districts

Wireless telecommunications facilities determined by the DRB to be necessarily located in a residential district in order to provide service to such district may be approved by the DRB provided it also finds that such facilities are being co-located with other existing utility facilities or are otherwise shielded from public view.

(g) Abandonment and Removal:

At the time of submission of the application for a wireless telecommunication facility the applicant shall submit an agreement and financial surety in a form suitable to the city attorney to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a wireless telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve consecutive months. Upon removal, the property shall be restored to its previous condition.

Sec. 5.4.8 Historic Buildings and Sites

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:

- To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;
- 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;
- 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,
- To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

As such, a building or site may be found to be eligible for listing on the state or national register of historic places and subject to the provisions of this section if all of the following conditions are present:

1. The building is 50 years old or older;
2. The building or site is deemed to possess significance in illustrating or interpreting the heritage of the City, state or nation in history, architecture, archeology, technology and culture because one or more of the following conditions is present:
   A. Association with events that have made a significant contribution to the broad patterns of history; or,
   B. Association with the lives of persons significant in the past; or,
   C. Embodiment of distinctive characteristics of a type, period, or method of construction, or representation of the work of a master, or possession of high artistic values, or representation of a significant or distinguishable entity whose components may lack individual distinction; or,
   D. Maintenance of an exceptionally high degree of integrity, original site orientation and virtually all character defining elements intact; or,
   E. Yielding, or may be likely to yield, information important to prehistory; and,
3. The building or site possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the

requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Additional information can be found at:
http://www.cr.nps.gov/hps/tps/standguide/rehab/rehab_standards.htm.

(c) Demolition by Neglect:

No owner of a historic building, or lessee who is obligated by lease to maintain and repair such a structure (other than the interior), shall allow, cause, or permit the structure to suffer or experience demolition by neglect. Examples of such disrepair and deterioration include, but are not limited to, the following:

1. Deterioration of walls or other vertical supports; walls, partitions or vertical supports that split, lean, list, or buckle, thus jeopardizing structural integrity;
2. Deterioration or inadequate foundations that jeopardize structural integrity;
3. Deterioration of roofs, ceilings, or other horizontal members;
4. Deterioration of fireplaces or chimneys;
5. Deterioration or crumbling exterior stucco or mortar;
6. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;
7. Lack of weather protection that jeopardizes the structural integrity of walls, roofs, plumbing, electricity, or overall structural integrity, including lack of paint, lack of adequate heating, and lack of adequate ventilation;
8. Vandalism caused by lack of reasonable security precautions; and/or
9. Deterioration of any feature so as to create a hazardous condition that could require demolition for public safety.

In such cases, the building inspector shall notify the property owner of any violation of this section. Such person shall have sixty (60) days to remedy any such violation. In the event the violation is not corrected within sixty (60) days of notification, the city shall be authorized to perform all repairs necessary to correct the violation and to place a lien on the property for the costs of such repairs and reasonable administrative and legal fees incurred.

(d) Demolition of Historic Buildings:

The purpose of this subsection is:

- To discourage the demolition of a historic building, and allow full consideration of alternatives to demolition, including rehabilitation, adaptive reuse, resale, or relocation;
- Provide a procedure and criteria regarding the consideration of a proposal for the demolition of a historic building; and,
- To ensure that the community is compensated for the permanent loss of a historic resource by a redevelopment of clear and substantial benefit to the community, region or state.

1. Application for Demolition.

For demolition applications involving a historic building, the applicant shall submit the following materials in addition to the submission requirements specified in Art. 3:

A. A report from a licensed engineer or architect who is experienced in rehabilitation of historic structures regarding the soundness of the structure and its suitability for rehabilitation;

B. A statement addressing compliance with each applicable review standard for demolition;

C. Where a case for economic hardship is claimed, an economic feasibility report prepared by an architect, developer, or appraiser, or other person experienced in the rehabilitation and adaptive reuse of historic structures that addresses:

(i) the estimated market value of the property on which the structure lies, both before and after demolition or removal; and,

(ii) the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;

D. A redevelopment plan for the site, and a statement of the effect of the proposed redevelopment on the architectural and historical qualities of other structures and the character of the neighborhood around the sites; and,

E. Elevations, drawings, plans, statements, and other materials which satisfy the submission requirements specified in Art. 3, for any replacement structure or structures to be erected or constructed pursuant to a development plan.

2. Standards for Review of Demolition.

Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review and in accordance with the following standards:

A. The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure; or,

B. The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district; or,

C. The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.

And all of the following:

D. The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;

E. All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly

documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington's architectural history; and,

F. The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).

(i) Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;

(ii) Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project; and,

(iii) The time between demolition and commencement of new construction generally shall not exceed six (6) months.

This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.

3. Deconstruction: Salvage and Reuse of Historic Building Materials.

The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.

Sec. 5.4.9 Brownfield Remediation

The City of Burlington encourages the remediation and redevelopment of brownfield sites through the waiver or modification of the requirements of this ordinance in situations where development otherwise authorized by the underlying zoning is constrained due to the presence of surface and subsurface contamination. Specifically, these regulations seek to achieve the following goals:

- To promote the public health and safety by remediating contaminated sites that pose a threat to human and environmental health; and,
- To encourage an efficient pattern of development in Burlington by supporting the redevelopment of previously developed sites.

(a) Applicability:

The provisions of this section shall only be available to the following types of properties throughout the city:

1. Properties eligible to participate in the Redevelopment of Contaminated Properties Program (RCPP) within the Agency of Natural Resources, Department of

Environmental Conservation created pursuant to 10 VSA §6615a or are otherwise impacted by a VT DEC approved Corrective Action Plan (CAP) for such a property;

2. Property listed on the national priorities list of superfund sites established under the federal Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") or otherwise impacted by a US EPA approved Record of Decision (ROD) for such a property; and,
3. Properties which have a hazardous waste certificate under 10 VSA §6606 and which are undergoing corrective action under the federal Resource, Conservation and Recovery Act ("RCRA") pursuant to the Vermont Hazardous Waste Management Regulations (VHWMR) §7-105(b) or are otherwise impacted by a VT DEC approved Corrective Action Plan (CAP) for such a property.

(b) Application Submission Requirements:

In addition to the submission requirements pursuant to Article 3, the following information as applicable specifying any and all use and development limitations of the site shall also be provided at the time of application:

1. A VT DEC Approved Corrective Action Plan (CAP) pursuant to 10 VSA §6615a (h);
2. A Record of Decision (ROD) issued by the US EPA;
3. A VT DEC Approved Corrective Action Plan (CAP) pursuant to VHWMR) §7-105(b); and,
4. Any Warranty Deed specifying any and all use and development limitations of the site.

(c) Review Process:

Applications seeking a waiver from the requirements of the underlying zoning pursuant to the provisions of this section shall be required to participate in both an Administrative Conference and Sketch Plan Review pursuant to Sec. 3.2.1 of Article 3.

Applications seeking a waiver from the requirements of the underlying zoning pursuant to the provisions of this section shall require review and approval by the DRB pursuant to the requirements of:

1. Site Plan and Design Review under Article 3, Part 4; and,
2. Major Impact Review under Article 3, Part 5.

(d) Waiver Limitations and Review Criteria:

The DRB has the discretion to waive or modify any relevant dimensional and use standards of the underlying zoning and other limitations imposed by this ordinance based on a demonstrated nexus with specific development limitations imposed by an approved corrective action plan, record of decision, or deed restriction limiting potential reuse and redevelopment or an eligible property.

In addition to the review criteria required pursuant to the provisions of Major Impact Review under Article 3, Part 5, and the development principles and design standards of Article 6, no permit shall be authorized by the DRB unless it finds that:

1. Any waiver or modification so granted is based on a demonstrated nexus with the development limitations imposed by an approved corrective action plan, record of decision, or deed restriction limiting potential use and redevelopment;
2. Any waiver or modification so granted is the minimum necessary to grant relief from the specific limitations imposed by an approved corrective action plan, record of decision, or deed restriction that would prevent the site from being redeveloped in strict conformance with the underlying requirements of the ordinance; and,
3. The redevelopment of the effected site as proposed more effectively satisfies the goals of the municipal development plan, furthers the intent of the zoning district in which it is located, and addresses the development principles and design standards of Article 6 than redevelopment in strict conformance with the underlying standards of this ordinance.

Sec. 5.4.10 Crisis Counseling Center

Crisis Counseling Center shall be considered a conditional use in any residential district and subject to all applicable provisions of Art 3, Part 5, and the site and design review standards in Art 6. In addition to conditional use standards, proposals for new Crisis Counseling Center in any residential district shall also comply with the following requirements:

(a) A Crisis Counseling Center may only be permitted on lots fronting the following streets: North Ave., Shelburne St., Main St., St. Paul St., Colchester Ave., and Pearl St.;

(b) A Crisis Counseling Center may only be permitted in a principal building existing as of January 1, 2007;

(c) Secondary residential use in the same building or on the same lot may be permitted consistent with the requirements of the underlying zoning district per Art. 4; and,

(d) All dimensional standards for the underlying zoning per the requirements of Art. 4 shall be applicable.

Sec. 5.4.11 Mental Health Crisis Center

A Mental Health Crisis Center shall be considered a conditional use in the Neighborhood Mixed-Use (NMU) district and subject to all applicable provisions of Art 3, Part 5, and the site and design review standards in Art. 6. In addition to conditional use standards, proposals for a Mental Health Crisis Center shall also comply with the following requirements:

(a) A Mental Health Crisis Center may only be permitted on lots fronting on Flynn Avenue and/or Pine Street within one thousand feet of the northwest corner of Pine St and Flynn Avenue.

(b) Inpatient short-term crisis care shall not exceed fourteen (14) consecutive nights;

(c) The number of beds for inpatient use shall not exceed ten (10);

(d) All dimensional standards for the underlying zoning per the requirements of Art. 4 shall be applicable.

Sec. 5.4.12 Mobile Home Parks

In addition to the applicable provisions of Art 3, Part 5 for Conditional Uses, Site Plan Design Standards in Art 6, Part 2, and Article 10 Subdivision Review if applicable, the following additional regulations shall be applicable to any application involving a Mobile Home Park.

(a) Mobile Home Parks

Regarding the establishment and operation of a Mobile Home Park:

1. The required minimum lot size, lot frontage, and waterfront setback, and required maximum density and building height shall be as required per the applicable Zoning District standards found in Tables 4.4.5-1, 4.4.5-2 and 4.4.5-3.
2. The required minimum side and rear setback shall be 20' and shall be calculated at the periphery of the Mobile Home Park.
3. The maximum permissible lot coverage shall be 60% calculated across the entire Mobile Home Park parcel.
4. The required minimum lot size shall be for the entire Mobile Home Park parcel, not the individual mobile home lots.
5. The required minimum separation distance between individual Mobile Homes within the Mobile Home Park shall be 10'.
6. One (1) on-site parking space shall be required per individual Mobile Home.
7. The Mobile Home Park shall maintain a circulation network that provides direct access to, and the mobility and replacement of, each individual Mobile Home.
8. Mobile Home Parks shall be exempt from the requirements of Art 9, Part 1 Inclusionary Zoning.
9. Individual Mobile Homes may be removed without triggering the requirements of Art 9, Part 2 Replacement Housing provided the total number of permitted Mobile Home lots remain available for occupancy, and any vacant lots are being actively marketed to prospective occupants.

(b) Non-Conforming Mobile Home Parks

1. Where a pre-existing Mobile Home Park is nonconforming pursuant to Art 5, Part 4, the entire Mobile Home Park, and not individual Mobile Homes and lots, shall be treated as nonconforming.
2. A Mobile Home Park shall be considered abandoned when the Mobile Home Park as a whole has been vacant for a period of six months or more. An individual Mobile Home lot that is vacated shall not be considered abandoned. No pre-existing nonconforming Mobile Home Park may be resumed once it has been abandoned except in full conformity with these bylaws.

3. An individual Mobile Home within a nonconforming Mobile Home Park may be altered, expanded, or replaced, provided:
   a. the applicant provides proof of adequate water and wastewater capacity;
   b. any portion of the relocated or expanded Mobile Home shall not be located less than five (5) feet from any other primary structure(s); and,
   c. the expansion or replacement will not:
      i. obstruct or prohibit ingress or egress for any primary structure;
      ii. obstruct or prohibit mobility or replacement of any primary structure;
      iii. obstruct or prohibit the provision of emergency services;
      iv. obstruct existing utilities or rights of way; nor
      v. threaten or unduly degrade public health, safety, or welfare
4. Any of the requirements in (3) above may be waived by the DRB provided:
   a. the applicant demonstrates that adherence to these standards would have the effect of prohibiting the replacement of a Mobile Home on an existing lot;
   b. the DRB shall provide only the minimum waiver that will afford relief and will represent the least deviation possible from the bylaw, while ensuring public health, safety, and welfare; and,
   c. in approving any waiver, the DRB may impose conditions requiring design features, screening, or other remedy as may be necessary to mitigate anticipated impacts of granting any such waiver.

PART 5: PERFORMANCE STANDARDS

Sec. 5.5.1 Nuisance Regulations

All applications for a zoning permit shall be required to demonstrate compliance with the applicable nuisance regulations and performance standards pursuant to the requirements of the Burlington Code of Ordinances. All such standards shall be met and maintained for all uses, except for agriculture and forestry, in all districts, as determined or measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns.

Sec. 5.5.2 Outdoor Lighting

It is the intent of these standards to encourage outdoor lighting practices and systems which will minimize light pollution and trespass; conserve energy while facilitating night-time visibility, surveillance and evening commercial and recreational activity ; and curtailing the degradation of the night time visual environment. All outdoor lighting shall be evaluated to ensure that the functional and security needs of the project are met in a way that will not adversely affect the adjacent properties or the surrounding neighborhood.

(a) Site Plan Review Required:

Unless otherwise exempt by this Section, all outdoor light fixtures shall be subject to review and approval in conjunction with any land use and development permits under the requirements of Article 3 – Site Plan Review.

(b) Exemptions:

The following types of outdoor lighting and lighting fixtures shall be exempt from the requirements of this chapter subpart as specified below:

1. Outdoor light fixtures for single-family dwellings not otherwise subject to the requirements of Art 3 - Design Review;
2. All outdoor light fixtures existing and legally installed prior to the effective date of this article. This exemption shall only apply for the replacement of an existing light fixture when it is replaced in-kind;
3. All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as citronella or kerosene lanterns or gas lamps;
4. Seasonal or holiday low output lighting decorations. Such lighting may not be moving or otherwise animated to the point of being distracting to motorists;
5. Decorative fixtures using low output lamps used for landscaping that do not emit direct illumination or glare, or cast a shadow onto adjacent property;
6. Lighting fixtures using low output lamps to light building entryways that do not emit direct illumination or glare, or cast a shadow onto adjacent property;
7. Construction or emergency lighting provided that such lighting is temporary and is discontinued immediately upon completion of construction work or abatement of said emergency. Such lighting shall not emit direct illumination or glare onto adjacent property; and,
8. Lighting of temporary uses and special events permitted by the city consistent with the provisions of the Title.

(c) Lighting Prohibited:

The following outdoor lighting shall be prohibited as specified below.

1. Up-lighting or back-lit canopies unless otherwise allowed under this Section;
2. The operation of searchlights or beacons for advertising or promotional purposes;

3. Moving or otherwise animated lighting to the point of being distracting to motorists; and,
4. Any light that imitates or causes visual interference with a traffic signal or other necessary safety or emergency light.

(d) Lighting Plan Submission Requirements:

In addition to the application submission requirements of Article 3, projects involving outdoor lighting not otherwise exempt from this Section shall also include a lighting plan. The following information shall be included within a lighting plan:

1. A site plan showing:
   A. The area(s) to be illuminated;
   B. A point-by-point photometric analysis of the anticipated illumination levels, including the maximum, minimum, and average illumination levels for each area specified to be illuminated;
   C. A calculation of the initial and mean lamp lumens per net acre across the entire site; and,
   D. The number, type, location, and mounting heights of all pole mounted and building mounted fixtures;
2. If vertical surfaces are to be illuminated, a point by point distribution of vertical illumination levels shall be provided, along with an indication of the maximum illumination level to be generated;
3. Specifications of all fixtures to be used including lamps, poles or other supports, and refractors, reflectors and lenses, along with documentation for cut-off classification, horizontal and vertical light distribution patterns which may be provided as catalogue cut sheets from the manufacturer; and,
4. Any additional information as may be required by the administrative officer in order to determine compliance with this Article.

(e) General Outdoor Lighting Standards:

All outdoor lighting shall be designed to provide no more than the minimum lighting necessary to ensure adequate vision and safety for the intended task to be performed in the lighted area. Light levels shall be compatible with or have gradual transitions with lighted public streets and sidewalks, and to not cause glare or cast direct illumination onto adjacent properties or streets.

Unless otherwise specified in Sec 5.5.2 (f) below, all outdoor lighting shall comply with the applicable sections of one or more of following general standards as may be required and interpreted by the administrative officer. In the case of conflicts, the lowest light level or most restrictive standard shall apply:

1. Standards developed by the Illuminating Engineering Society of North America (IESNA) *Lighting for Exterior Environments* (RP-33-99) or the most current edition.
2. Standards developed by the Illuminating Engineering Society of North America (IESNA) *Lighting for Parking Facilities* (RP-20-98) or the most current edition.

3. *Outdoor Lighting Manual for Vermont Municipalities* published by the Chittenden County Regional Planning Commission (1996) or the most current edition.
4. All outdoor lighting fixtures, other than those using only low output lamps and alternatives specifically allowed under these regulation, shall be "Full Cut-off" or "Cut-off" as defined by the Illuminating Engineering Society of North America (IESNA) to ensure that glare is minimized, that lighting is directed only to the area to be illuminated, that illumination is directed below a horizontal plane, and that illumination does not cast direct light beyond the boundaries of the property on which they are located. Light levels on adjacent properties shall not exceed one-tenth (0.1) footcandle as a direct result of the on-site lighting measured twenty (20) feet beyond the property line of the development site.
5. All illumination shall be of a white light, such as a fluorescent, metal halide, incandescent or a combination of lamps having a color rendering index greater than seventy (70).
6. Illumination levels where indicated are to be measured in mean footcandles (fc) produced by the mean light output of the lamps specified. Actual or estimated illumination levels shall be measured horizontally at ground level unless otherwise specified in these regulations.
7. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment shall not project above the horizontal plane and shall not extend beyond the property line, nor in the direction of the public right of way used for traffic or pedestrians or residential properties.
8. The illumination of all flags, other than the flag of a state or national government as may be required under law, shall be extinguished at the end of public business hours or by 10:00 PM which ever is later.

   Such flags not taken down at sunset may be illuminated by down-directed lighting or pole mounted up-lighting using no more illumination than is necessary for it to be recognized by the casual observer. All fixtures used to illuminate flags shall be narrow beam spot lights using low voltage and low level lighting selected to focus only on the area of the flag. Spot lights shall conceal the source by employing shields, grids, and hoods that prevent lamp glare from impacting surrounding uses.
9. Neon tubing or band lighting along a building or structure highlighting articulations shall only be allowed after review and approval subject to the requirements of Article 3 - Design Review. Such lights are exempt from the shielding and color rendering requirements of this ordinance.

(f) Specific Outdoor Lighting Standards:

In addition to the general standards above, the following specific lighting standards shall apply to each of the following outdoor lighting applications:

1. Parking Lot Lighting:

Outdoor lighting of parking and related circulation areas shall comply with the following standards:

A. The maximum mounting height for any fixture shall be 25 ft.

B. The maximum illumination level shall not exceed 4 footcandles (fc) at any point.

C. The maximum illumination level shall only be computed for the functional area of the parking lot.

D. The maximum to minimum uniformity ratio shall not exceed 20:1.

E. Illumination levels are encouraged to be reduced by at least 50% within one hour after the end of public business hours

These standards also shall apply to the top and/or unenclosed level of any parking garage. Enclosed areas within parking garages such as parking and circulation areas, internal stairways, and attendant booths are subject to the lighting regulations pertaining to Parking Garages found in Sec 5.5.2(f)(5).

2. Walkway Lighting:

Outdoor lighting of walkways, alleys, and pedestrian paths shall comply with the following standards:

A. The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles. Maximum lighting levels shall not exceed 2 footcandles;

B. The area over which the average illumination level is computed shall only include the walkway surface plus an area on each side not more than 5 feet in width; and,

C. Lighting fixtures other than full cut-off fixtures may be used but shall be designed to minimize glare, direct illumination downward, and shall have an initial output of no more than 1,200 initial lumens.

Lighting of walkways and paths in all RCO districts is discouraged. If lighting is installed, in no case shall such lighting exceed the levels cited above under (A) above.

3. Lighting of Gasoline Fueling Pump Islands and Canopies:

Lighting of areas around fueling pump islands, and under canopies sheltering such fueling pump islands, shall meet the following standards:

A. The average illumination level for canopies in commercial and other zones where permitted shall not be more than 10.0 footcandles. Canopies in Residential Zones and/or where they are associated with a non-conforming use, average illumination levels shall not exceed 5.0 footcandles;

B. Light fixtures mounted under a canopy shall be recessed so that the lens cover is recessed into, or flush with, the underside (ceiling) of the canopy;

C. No light fixtures may be mounted on top of the canopy, and the sides of the canopy (fascia) shall be opaque and shall not be illuminated;

D. Illumination levels shall be reduced by at least 50% within one hour after the end of public business hours; and,

E. Areas away from fueling pump islands, as defined by the extent of the canopy, shall be considered parking and circulation areas. They shall be identified as such on the lighting plan submitted in accordance with Sec 5.5.2(d), and shall be subject to parking area lighting regulations as set forth in Sec 5.5.2(f)(1) above.

4. Other Vehicular Canopies:

This section applies to canopies associated with commercial buildings that are used to protect drivers and pedestrians from inclement weather

A. Average illumination levels below the perimeter of the canopy shall not exceed 2 footcandles.

B. Light fixtures mounted under a canopy shall be full cut off.

C. No light fixtures may be mounted on top or on the sides (fascia) of the canopy. Opaque or translucent canopies and shall not be illuminated.

D. Lights shall be turned off during non-business hours. If security lighting is required, such lighting shall be submitted and reviewed as per Sec 5.5.2 (f)7.

5. Parking Garage Lighting

Recommended illumination levels for parking garages are generally higher and more uniform that that of exterior parking lots. Non-cut-off, up-light and in-direct light is often used to create a uniform lighting environment and an added feeling of security.

A. Light levels shall not exceed minimums recommended in IESNA document RP-20-98 or current edition.

B. Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixture or shall be constructed in a manner that prevents glare to be visible from the exterior of the parking garage (see examples pictured below)

6. Lighting of Exterior Sales/Display Areas:

Illumination of exterior sales/display areas shall meet the following standards:

A. Areas designated for exterior display or sales shall have an average illumination level of no more than 2.0 footcandles and a maximum illumination of no more than 10 footcandles;

B. The average illumination level shall be computed only for the area used for exterior display or sales;

C. Illumination levels shall be reduced by at least 50% within one hour after the end of public business hours; and,

D. Areas used for passive storage or parking and circulation shall be illuminated in accordance with the parking area standards of these regulations, and indicated as such on the lighting plan submitted in accordance with Sec 5.5.2 (d).

7. Security Lighting:

Lighting for security surveillance should be kept to a minimum. Use of motion/heat activated light and security alarms are encouraged to minimize the use of full site lighting when the building is not occupied or in use.

All applications involving security lighting shall include a written narrative outlining the need for and purposes of security lighting as part of a security plan. A site plan shall designate the area to be illuminated for security purposes. To the extent that the area designated for security lighting may also be illuminated for other purposes, independent security lighting fixtures shall be discouraged.

A. All fixtures used for security lighting shall be full cut-off as defined by IESNA.

B. The use of flood light fixtures is prohibited unless approved by the DRB. The applicant shall present cause as to why cut-off fixtures cannot be used for the illumination needed.

C. If flood lights are used, the fixtures shall be positioned so that the lamp or reflector cannot be view directly from any point beyond the property and shall include grids and/or baffles to prevent glare.

D. Security lighting fixtures may be mounted on poles located no more than ten (10) feet from the perimeter of the designated area being illuminated. Illumination from pole mounted fixtures outside the property line is not permitted.

E. Security lighting designed to illuminate a perimeter (such as a fence) are encouraged to include motion/heat sensors designed to be off unless triggered by an intruder located within five (5) feet of the perimeter.

F. Security lighting may illuminate vertical surfaces up to a level eight (8) feet above grade or eight (8) feet above the bottom of doorways or entries, whichever is greater.

G. The average illumination level of vertical surfaces shall be measured at a height of 5 feet above grade, and computed over the area of the surface designated to be illuminated in the security plan.

H. Security lighting may remain illuminated beyond 10:00pm or the close of business to one hour after sunrise.

8. Outdoor Recreational Facility Lighting:

There are a variety of outdoor recreation facilities that may be illuminated to allow nighttime use. Examples include tennis courts, ball fields, swimming pools, outdoor skating rinks, and public parks. The regulations in this section are intended to allow illumination of such activities while minimizing adverse impacts such as glare, unwanted illumination of nearby properties and streets, and skyglow. Such lighting shall be consistent with the following regulations:

A. Cut-off, shielded, and/or louvered lighting are recommended for fields designed for Class III or IV levels of play (typically amateur or municipal league, elementary to high school, training, recreational or social levels; cf. IESNA Lighting Handbook and IESNA RP-6 *Sports and Recreational Area Lighting*).

B. Lighting for facilities designed for Class I and II levels of play (typically college, semi-professional, professional, or national levels) shall utilize luminaires with minimal uplight consistent with the illumination constraints of the design.

C. Where cut-off fixtures are not utilized, acceptable luminaires shall include those which:

   i. Are provided with internal and/or external glare control louvers and installed so as to minimize uplight and offsite light trespass;

   ii. Are installed and maintained with aiming angles that permit no greater than five percent (5%) of the light emitted by each fixture to project above the horizontal; and;

   iii. All lighting installations shall be designed to achieve no greater than the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

D. Lighting fixtures other than full cut-off fixtures may be allowed only if their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed offsite.

E. Lighting shall be turned off except when the facilities are in use or being maintained.

9. Lighting of Building Facades:

Low level illumination of building facades may be allowed behind and beneath covered walkways. Lighting of building facades other than behind and beneath covered walkways may be allowed only for buildings of cultural or religious significance. Façade lighting shall meet the following requirements.

A. The maximum illumination level on any vertical surface shall not exceed 5.0 footcandles;

B. If a first floor façade is illuminated by lights mounted under a canopy sheltering a walkway, the maximum horizontal illumination of the walkways shall not exceed 3.0 footcandles at grade level. If there is no walkway under the canopy, the average horizontal illumination shall not exceed 1.0 footcandle at grade level;

C. Roofs shall not be illuminated;

D. Light fixtures under translucent canopies shall be cut-off or fully cut-off so that illumination is not directed to the underside of the canopy;

E. Lighting fixtures shall be shielded so that the light source and/or lens is not visible from adjacent or adjoining properties or streets; and,

F. Cut-off lighting fixtures shall be used for lighting of building facades behind and beneath covered walkways. Non-cut-off lighting fixtures may be used for building façade lighting of significant public or institutional buildings.

(g) Exceptions

Technological advances in outdoor lighting lamp sources and luminaires may allow for options not considered in these regulations. Induction (electrodeless) or LED lighting are two current examples. The use of new technologies, and especially those that have energy saving properties, are encouraged. Applications that use new technologies, and follow the spirit of the ordinance will be considered and evaluated for approval.

Sec. 5.5.3 Stormwater and Erosion Control

All new development and redevelopment projects that require a zoning permit shall be required to demonstrate compliance with the standards in Article 3, Stormwater & Erosion Control of Chapter 26 of the City Code of Ordinances: Wastewater, Stormwater, and Pollution Control.

Sec. 5.5.4 Tree Removal

(a) Review criteria for zoning permit requests for tree removal.

1. Grounds for Approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

A. Removal of dead, diseased, or infested trees

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices

C. Removal of trees that are a danger to life or property; or

D. As part of a development with an approved zoning permit

2. Grounds for Denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

A. Providing a significant privacy or aesthetic buffer or barrier between properties

B. Providing stabilization on slopes vulnerable to erosion

C. Located within a riparian or littoral buffer

D. Provide unique wildlife habitat

E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program; or

F. A significant element of, or significantly enhances, an historic site

(b) Tree Maintenance Plans

Institutions or other property owners who practice ongoing tree removal shall be exempt from the requirement to obtain a zoning permit for individual tree removal projects subject to obtaining approval from the DRB for a plan as follows:

1. A Tree Maintenance Plan prepared by a certified arborist shall be submitted as a Level I Certificate of Appropriateness, with a level I application fee. This plan shall include general and specific criteria for removing trees based on the criteria as per Sec. 5.5.4 (a).
2. The Tree Maintenance Plan if approved by the Development Review Board. Approval of the Plan is valid for up to five (5) years.
3. In order to continue tree removal, Tree Maintenance Plans must be updated or re-written and approved by the Development Review Board at five (5) year intervals.

ARTICLE 6: DEVELOPMENT REVIEW STANDARDS

Introduction: This Article of the Burlington Comprehensive Development Ordinance provides a comprehensive set of development principles and design standards that are intended to apply to all types of development throughout the city. The "Development Principles" are drawn from community goals as defined in adopted city plans, while the "Design Standards" provide more specific direction regarding design methods or strategies that may be used to achieve the development principles. Divided into three sections, these standards address issues regarding the creation of new lots and streets, site plans for individual properties, and the characteristics of individual buildings.

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Sec. 6.0.1 Intent and Citywide Development Principles

This Article is intended to provide specific direction in the planning, design, and subsequent review of development in Burlington with the objective of ensuring that all proposed development furthers Burlington's vision for a dynamic, vibrant, sustainable city amidst a scenic, natural setting. Burlington's built environment must protect the city's rich collection of historical, architectural, and natural features, while enhancing the urban experience and livability of neighborhoods by ensuring that development is sensitive to the scale, detailing, and intensity appropriate to each district and allowable use.

Burlington is a leader in advancing the goal of creating a sustainable community. In order to reach this goal, all development in the city shall address the following development principles as applicable:

Development in Burlington shall:

(a) Complement its context and environment – both natural and built, and enhance the community with creative design, durable materials, and quality construction.

(b) Retain and preserve important natural features by incorporating them into site plans and landscape designs.

(c) Emphasize function - natural, aesthetic, social, and recreational – in its landscape design.

(d) Promote effective and efficient transportation systems to mitigate the adverse impacts of vehicles such as by maintaining and perpetuating the urban street grid, supporting multiple and integrated modes, giving pedestrian the priority, reducing curb cuts, integrating parking and circulation into architectural and landscape designs, and minimizing the presence of service areas.

(e) Promote personal safety and accessibility for those with disabilities in the design of publicly accessible outdoor and indoor spaces.

(f) Complement Burlington's architectural and cultural heritage by conserving and/or reflecting dominant design elements and characteristics of neighborhoods, and maintaining neighborhood proportions of scale and mass.

(g) Incorporate climate sensitive and environmentally-conscious design considerations to create healthier, more productive, and more sustainable places to live and work.

(h) Ensure that public buildings, structures, and spaces, be designed and constructed to the highest standards in order to reflect community values, inspire future development, foster civic pride, and serve as a model to others.

Given their more dynamic and complex nature, the following development principles shall also apply as applicable within any mixed-use zoning district as defined in Article 4:

(i) Contribute to Burlington's moderately scaled urban form, and emphasize a more efficient pattern of development.

(j) Ensure the scale, massing, and dominant architectural elements contribute to the overall composition and developing character of the surrounding area.

(k) Complement Burlington's natural setting and conserve scenic public views and view corridors.

(l) Enhance the city's skyline and promote visual interest with a variety of roof forms and architectural elements.

(m) Unify architectural elements, details, and materials of a building, such that all components appear integral to the whole.

(n) Compose the massing of the building to create a transition of height, bulk, and scale to less intensively developed neighboring properties.

(o) Compose building facades at and near the street level with human-scaled elements and details that promote pedestrian interest, comfort, and safety.

(p) Facilitate pedestrian movement, and provide access to the lakeshore and other natural and cultural amenities.

(q) Orient advertising features to the pedestrian, and compliment the architecture of the building.

The role of these development principles, and the design standards found later in this Article, are as follows:

- Development Principles are drawn from established community goals as defined in adopted city plans, and serve as the highest order of importance in cases where

individual standards appear to conflict and greater discretion on the part of the DRB is required.

- Design Standards provide more specific direction regarding design methods or strategies that may be used to achieve the development principles. Design standards include both required ("shall") and flexible ("should") components. It is understood that many of the standards presented are not the only options available, and creativity is encouraged to achieve the desired result.

It is recognized that the application of these principles and standards involves value-based design and decision-making requiring a balancing of complex factors, interests, and needs. In applying these city-wide development principles and design standards, particular attention shall be given to the context of the development proposal and achieving conformance with the purpose of the district(s) in which the project is located.

PART 1: LAND DIVISION DESIGN STANDARDS

Sec. 6.1.1 Applicability.

These standards are enacted to apply to all development subject to the provisions of this ordinance found in Art. 10 – Subdivisions or Art. 11 – Planned Development involving the subdivision of land, or an adjustment or reconfiguration of lot lines.

Sec. 6.1.2 Review Standards

(a) Protection of important natural features:

The arrangement of blocks and lots shall preserve watercourses, wetlands, steep slopes, flood-prone areas, rock outcroppings, wildlife habitat and travel corridors, specimen trees and contiguous stands of forest, and other sensitive ecological and geological areas to the extent practicable.

(b) Block Size and Arrangement:

The size and arrangement of new bocks shall maintain the size and arrangement of existing neighborhood blocks within the zoning district, and support the pattern of interconnected streets throughout the city.

(c) Arrangement of lots:

The size and arrangement of new lots shall reflect and perpetuate the existing development pattern of the surrounding neighborhood. Lots shall be created in such a way as to enable their development pursuant to the requirements of this ordinance, and ensure a clear transfer of title.

Interior lot lines extending from a street should be perpendicular or radial to the street right-of-way line to the greatest extent feasible. Flag lots and through lots are

discouraged, and shall be allowed only to the extent where topography and existing block and lot arrangement allow no suitable alternative. In such cases, a minimum frontage for access of 20-feet shall be required.

(d) Connectivity of streets within the city street grid:

The established grid of interconnected streets shall be maintained and extended to the extent practicable. All streets shall be in conformance with applicable street design & construction details as provided by the department. of public works, and shall be dedicated to the city.

(e) Connectivity of sidewalks, trails, and natural systems:

The established sidewalk network shall be maintained and extended to the extent possible. Trail networks and uninterrupted corridors of greenspace outside of the established street grid should be maintained and extended wherever possible. All sidewalks shall be in conformance with applicable street design & construction details as provided by the department. of public works, and shall be dedicated to the city.

PART 2: SITE PLAN DESIGN STANDARDS

Sec. 6.2.1 Applicability.

These standards shall be satisfied for the approval of all development subject to the provisions of this ordinance found in Article 3, Section 3.4.2(1) – Site Plan Review.

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

The landscape, existing terrain and any significant trees and vegetation shall be preserved in their natural state insofar as practicable in keeping with the objectives of the underlying zoning district. Development and site disturbance shall preserve watercourses, wetlands, steep slopes, flood-prone areas, rock outcroppings, wildlife habitat and travel corridors, specimen trees and contiguous stands of forest, and other sensitive ecological and geological areas insofar as practicable in keeping with the objectives of the underlying zoning district. Site plans shall provide suitable buffers from any proposed site improvements, and maintain continuity and contiguousness of greenspace while allowing reasonable development in support of the overall intent of the zoning district. Where any natural features are proposed to be removed or the topography altered, special attention shall be given to replace or mitigate the loss of such features. Any development occurring on parcels containing significant natural areas identified in the city's *Open Space Protection Plan* shall avoid disturbance to these natural areas and establish appropriate buffers that protect their natural functions.

(b) Topographical Alterations:

Alteration to the natural contour of the site shall minimize grading, cut, and fill, and shall take necessary measures to protect against erosion and future instability. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. In areas where more intense levels of development are encouraged, development should seek to take advantage of topographical changes to hide and/or blend new construction into the landscape. Proposed design and construction details for any cut and fill, or retaining walls over 3-feet in height, or any height along the lakeshore, shall be subject to review and approval by the city engineer before receiving approval of the site plan.

(c) Protection of Important Public Views:

Distant terminal views of Lake Champlain and the mountains to the east and west, and important public and cultural landmarks, framed by public rights-of-way or viewed from public spaces shall be maintained through sensitive siting and design to the extent practicable. This shall not be construed to include views from exclusively private property.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

(e) Supporting the Use of Renewable Energy Resources:

Where feasible, the site plan should be so designed as to take advantage of the site's inherent potential to utilize sources of renewable energy including direct sunlight, wind, or running water. The site plan should also incorporate site planning and landscaping decisions intended to minimize energy demand such as siting buildings to maximize solar access or the use of deciduous and coniferous trees to create shade and windbreak.

Buildings should, where appropriate within the context of the neighborhood development pattern, maximize their solar exposure by being oriented to maximize natural light and heat gain during winter months, and to minimize casting shadows into ground floor living space of a building on an adjacent property.

(f) Brownfield Sites:

Where a proposed development involves a known or suspected brownfield, the site plan shall indicate areas of known or suspected contamination, and the applicant shall identify completed or planned remediation necessary to support the intended use(s).

(g) Provide for nature's events:

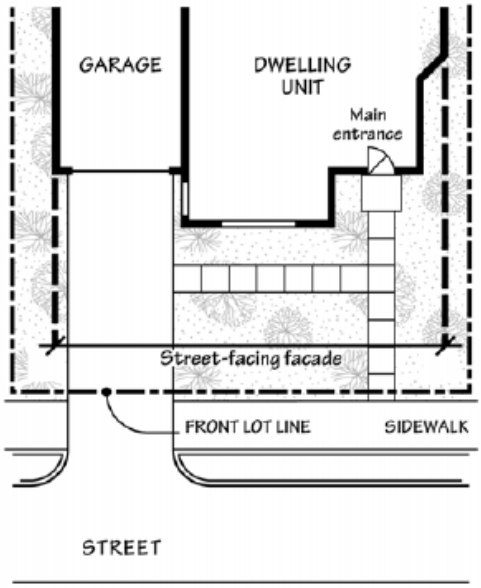
Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

(h) Building Location and Orientation:

The introduction of new buildings and additions shall maintain the existing development pattern and rhythm of structures along the existing streetscape. New buildings and additions should be aligned with the front façade of neighboring buildings to reinforce the existing "street-edge," or where necessary, located in such a way that complements existing natural features and landscapes. Buildings placed in mixed-use areas where high volumes of pedestrian traffic are desired should seek to provide sufficient space (optimally 12-15 feet) between the curbline and the building face to facilitate the flow of pedestrian traffic. In such areas, architectural recesses and articulations at the street-level are particularly important, and can be used as an alternative to a complete building setback in order to maintain the existing street wall.

Principal buildings shall have their main entrance facing and clearly identifiable from the public street. The development of corner lots shall be subject to review by the city engineer regarding the adequacy of sight distances along the approaches to the intersection. To the extent practicable, development of corner lots in non-residential areas should try to place the building mass near the intersection and parallel to the street to help anchor the corner and take advantage of the high visibility location.

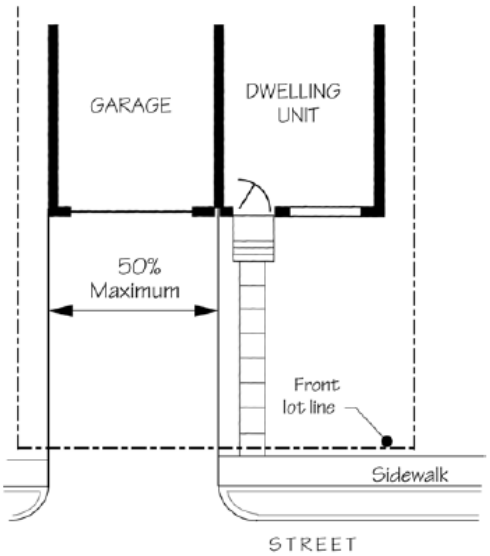


In residential areas, accessory buildings shall be located in such a way so as to be secondary and subordinate in scale and design to the principal structure. A parking structure – either attached or detached – shall be setback from the longest street-facing wall of the principal structure and be deferential yet consistent in character and design. Where a front yard setback is required, any street-facing garage wall containing garage doors shall be set back a minimum of 25' from the front property line to prevent parked vehicles from blocking the public sidewalk. Where a garage is not oriented towards the street (i.e. the garage doors face the rear or side yard), the street-facing garage wall shall have windows or doors or other features that break-up the mass into smaller elements, and be blended with the character of the residential portion of the structure.

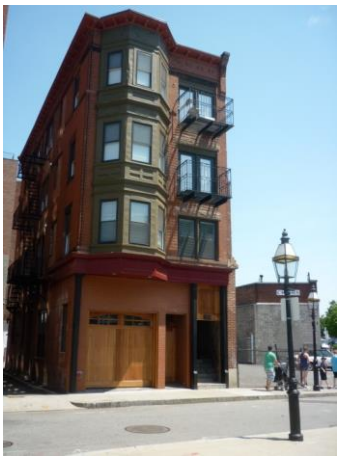
Where a garage is attached to a principal single-family or duplex residential structure and oriented to the street (i.e. the garage doors face the street) the following standards shall apply:

1. Except as provided in subsections 3, 4 and 5 below, a street-facing garage wall shall constitute no more than 50% of the width of the street-facing façade of the entire structure (including the garage portion), and shall not exceed 24-feet. In

cases where a street-facing garage wall constitutes between 30%-50% of the street-facing façade, living space is encouraged above to integrate the garage more closely into the design and mass of the overall structure. In cases where the street-facing garage wall constitutes more than 50% of the width of the street-facing façade, living space above is required.



2. Each bay of the garage shall have a separate entrance door of no more than 10-feet in width.
3. Where the width of the street-facing façade of the residential portion of the structure is less than 14 feet, the street-facing garage portion may be allowed up to but not exceeding 14 feet in order to allow for a single garage bay.
4. Where a garage entrance is within a single roofline and wholly integrated into the overall design the front façade of the structure, it may constitute more than 50% of the width of the street-facing façade provided there is interior living space above, and the primary pedestrian entrance offers a clear and welcoming entrance from the street.



5. Enclosed space originally designed and constructed as a garage for vehicular parking but converted to living space may be converted back to enclosed vehicular parking provided there is no expansion of the building footprint necessary to complete the conversion.

(i) Vehicular Access:

Curb cuts shall be arranged and limited in number to reduce congestion and improve traffic safety. A secondary access point from side roads is encouraged where possible to improve traffic flow and safety along major streets. The width and radius of curb cuts

should be kept to the minimum width necessary, and sight triangles and sufficient turnarounds for vehicles shall be provided to reduce the potential for accidents at points of egress.

Residential driveways shall be a minimum of 7 feet in width or consist of two 1.5' driveway strips. Driveway strips shall be accompanied by a paved area for the parking and/or storage of motor vehicles. The maximum width for single or shared access driveways shall be 18'. In a residential district, driveways and parking areas shall be set back a minimum of 5' from side and rear property lines.

Driveways for commercial properties may require a traffic study to identify the impacts of the movement of traffic to and from the property, and design for safe access. Access for service and loading areas should be located behind buildings or otherwise screened from streets or public ways with landscaping or other barriers. Whether commercial or residential, shared driveways are encouraged, where possible and appropriate.

(j) Pedestrian Access:

Pedestrians shall be provided one or more direct and unobstructed paths between a public sidewalk and the primary building entrance. Well defined pedestrian routes shall be provided through parking areas to primary building access points and be designed to provide a physical separation between vehicles and pedestrians in a manner that minimizes conflicts and improves safety. Where sidewalks and driveways meet, the sidewalk shall be clearly marked by differentiated ground materials and/or pavement markings.

(k) Accessibility for the Handicapped:

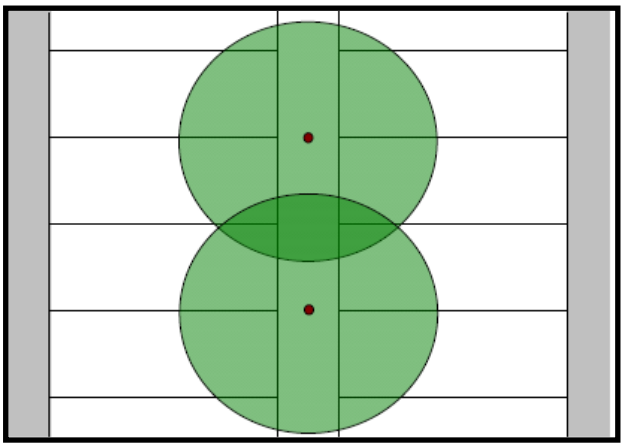
Special attention shall be given to the location and integration of accessible routes, parking spaces, and ramps for the disabled. Special attention shall also be given to identifying accessible access points between buildings and parking areas, public streets and sidewalks. The federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) shall be used as a guide in determining the adequacy of the proposed development in addressing the needs of the disabled.

(l) Parking and Circulation:

To the extent possible, parking should be placed at the side or rear of the lot and screened from view from surrounding properties and adjacent public rights of ways. Any off-street parking occupying street level frontage in a Downtown Mixed Use District shall be setback from the edge of the front property line in order to provide space for active pedestrian-oriented uses. Where street-level parking is provided within an existing structure, the cars shall be screened from the sidewalk and the area shall be activated with landscaping, public art, or other design amenities. Parking areas of more than 20 spaces should be broken into smaller areas separated by landscaping.

Attempts to link adjacent parking lots or provide shared parking areas which can serve neighboring properties simultaneously shall be strongly encouraged.

Parking shall be laid out to provide ease in maneuvering of vehicles and so that vehicles do not have to back out onto city streets. Dimensions of spaces shall at a minimum meet the requirements as provided in Article 8. The perimeter of all parking areas shall be



designed with anchored curb stops, landscaping, or other such physical barriers to prevent vehicles from encroaching into adjacent green spaces.

Surface parking and maneuvering areas should be shaded in an effort to reduce their effect on the local microclimate, air quality, and stormwater runoff with an objective of shading at least 30% of the parking lot. Shading should be distributed throughout the parking area to the greatest extent practical, including within the interior depending on the configuration. New or substantially improved parking areas with 15 or more parking spaces shall include a minimum of 1 shade tree per 5 parking spaces with a minimum caliper size of 2.5”-3” at planting. Up to a 30% waiver of the tree planting requirement may be granted by the development review board if it is found that the standard requirement would prove impractical given physical site constraints and required compliance with minimum parking requirements. All new shade trees shall be: of a species appropriate for such planting environments, expected to provide a mature canopy of no less than 25-feet in diameter, and selected from an approved list maintained by the city arborist. Existing trees retained within 25-feet of the perimeter of the parking area (including public street trees), and with a minimum caliper size greater than 3-inches, may be counted towards the new tree planting requirement.

All parking areas shall provide a physical separation between moving and parked vehicles and pedestrians in a manner that minimizes conflicts and gives pedestrians a safe and unobstructed route to building entrance(s) or a public sidewalk.

Where bicycle parking is provided, access shall be provided along vehicular driveways or separate paths, with clearly marked signs indicating the location of parking areas. Where bicycle parking is located proximate to a building entrance, all shared walkways shall be of sufficient width to separate bicycles and pedestrians, and be clearly marked to avoid conflicts. All bicycle parking areas shall link directly to a pedestrian route to a building entrance. All bicycle parking shall be in conformance with applicable design & construction details as provided by the dept. of public works.

(m) Landscaping and Fences:

Landscaping shall be used to beautify the development site and to provide specific functions and benefits to the uses and buildings on the site. These include but are not limited to stormwater retention and erosion control, winter windbreaks and summer shade, recreational and habitat corridors, buffers and screening of parking areas, and creating privacy for and from adjacent property.

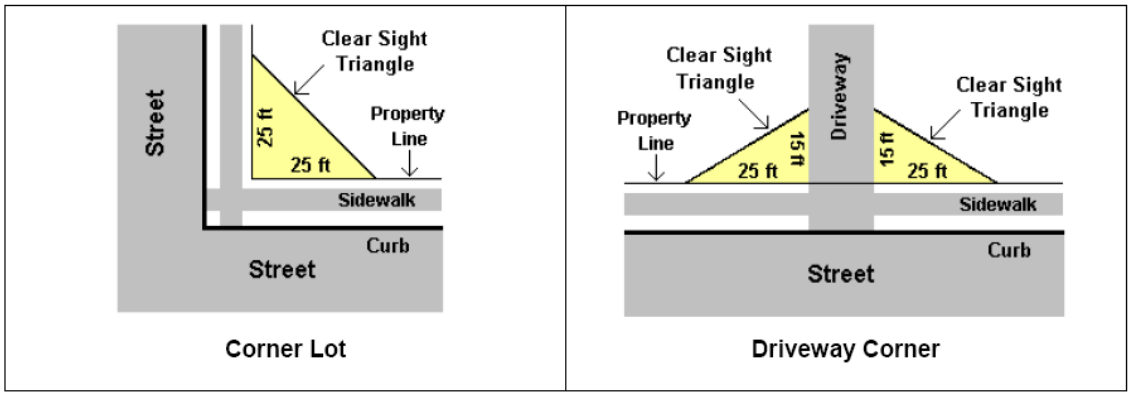
Existing trees shall be retained and incorporated into a landscape plan to the extent possible, and existing trees to be retained shall be protected during construction in accordance with specifications provided by the city arborist. Contiguous green space, both within the site and with adjacent properties, should be provided on a site whenever possible and be designed to provide wildlife travel corridors and habitat preservation, as

well as enabling recreational access. If open space is intended to be publicly accessible, it shall be designed to maximize accessibility for all individuals including the disabled, encourage social interaction, and facilitate ease of maintenance. Along the street edge, landscaping shall be used to provide a visual buffer into parking areas from the public street and reinforce the streetscape.

The selection of plant materials and planting sites should create a sustainable landscape, and consideration shall be given to factors such as hardiness, salt tolerance, disease resistance, invasiveness, root and canopy spread, underground and overhead utilities, soil conditions, and microclimates. The use of native plant materials is encouraged, and the use of plants considered invasive by VT Agency of Agriculture shall be prohibited. For more information on sustainable landscapes, applicants are encouraged to consult *Planting Sustainable Landscapes: A Guide for Plan Reviewers* prepared for the Vermont Department of Forests Parks and Recreation by the Vermont Chapter of the American Society of Landscape Architects.

New or replacement street trees shall be provided consistent with the city's *Street Tree Master Plan*. All proposed street trees shall be selected and planted in accordance with specifications provided by the city arborist.

Fences may be placed within the required setback along a property line, but shall be setback sufficiently to provide for the maintenance of both sides of the fence without entering onto the adjacent property and shall present a finished side to the adjoining property and public street. Fences placed within a clear sight triangle along driveways and at street intersections, or between an existing building and the front property line, whichever is less, shall be limited to 3-feet in height above the curb in order to provide safe sight distances for pedestrians and vehicles. Styles, materials, and dimensions of the proposed fence shall be compatible with the context of the neighborhood and the use of the property.



(n) Public Plazas and Open Space:

Where public open space is provided as an amenity to the site plan, it should be sited on the parcel to maximize solar exposure, with landscaping and hardscape (including fountains, sitting walls, public art, and street furniture) to encourage its use by the public in all seasons. Public plazas should be visually and physically accessible from public rights-of-ways and building entrances where appropriate and shall be designed to

maximize accessibility for all individuals, including the disabled and encourage social interaction.

Public space should be coordinated with the surrounding buildings without compromising safety and visibility. Public spaces should be surrounded by active uses that generate pedestrian traffic, and connect the space to major activity centers, streets, or corridors.

New structures and additions to existing structures shall be shaped to reduce shadows on public plazas and other publicly accessible spaces. In determining the impact of shadows, the following factors shall be taken into account: the mass of area shaded, the duration of shading, and the importance of sunlight to the utility of the type of open space being shadowed. Proposed development shall be considered for solar impact based the sun angle during the Vernal and Autumnal equinox.

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be place underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

PART 3: ARCHITECTURAL DESIGN STANDARDS

Sec. 6.3.1 Applicability.

These standards are enacted and shall be satisfied for the approval of all development subject to the provisions of this ordinance found in Article 3, Section 3.4.2(b) – Design Review.

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity.

The following shall be considered:

1. Massing, Height and Scale:

While architectural styles or materials may vary within a streetscape, proposed development shall maintain an overall scale similar to that of surrounding buildings, or provide a sensitive transition, where appropriate, to development of a dissimilar scale.

In low and medium density residential districts, the height and massing of existing residential buildings is the most important consideration when evaluating the compatibility of additions and infill development. Where the zoning encourages greater intensity and larger scale buildings in high density residential and non-residential zoning districts, buildings that are over 3-stories should provide a transition by employing design elements that reduce the apparent building mass from the street level. Taller buildings and elements are most appropriate where they provide a focal point of a terminal view, anchor a street corner, frame view corridors, or relate to larger scaled structures. The impacts at the street-level of increased or altered wind currents and downdrafts created by buildings over six (6) stories should be considered.

Buildings should maintain consistent massing and perceived building height at the street level, regardless of the overall bulk or height of the building. Buildings should maintain a relationship to the human scale through the use of architectural elements, variations of proportions and materials, and surface articulations. Large expanses of undifferentiated building wall along the public street or sidewalk shall be avoided. The apparent mass and scale of buildings shall be broken into smaller parts by articulating separate volumes reflecting existing patterns in the streetscape, and should be proportioned to appear more vertical than horizontal in order to avoid monotonous repetition. (See also *(d) Provide an active and inviting street edge* below.)

2. Roofs and Rooflines.

New buildings should incorporate predominant roof forms and pitches within the existing neighborhood and appropriate to the context. Large expanses of undifferentiated roof forms shall be avoided. This can be achieved by incorporating dormers or some variation in the roof form to lessen the impact of the massing against the sky. While flat roofs can be a reasonable architectural solution, pitched roof forms and architectural elements that enhance the city's skyline are strongly encouraged. Roof eaves, parapets, and cornices should be articulated as an architectural detail.

Roof-top mechanicals shall be screened from view from the public street, and should be incorporated into and hidden within the roof structure whenever possible.

Solar panels, light colored ballast or roof membranes, split roof clerestories, planted or "green" roof technologies (with a clearly articulated maintenance plan) and "gray water" collection are encouraged. Active rooftop uses are also encouraged to add to the visual complexity and activity of the city's skyline, and afford public access to otherwise unseen views of the city and surrounding landscape.

3. Building Openings

Principal entrances shall be clearly defined and readily identifiable from a public street whether by a door, a canopy, porch, or other prominent architectural or landscape features. People with physical challenges should be able to use the same entrance as everyone-else and shall be provided an "accessible route" to the building. Attention shall also be accorded to design features which provide protection from the affects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage.

Window openings shall maintain consistent patterns and proportions appropriate to the use. The window pattern should add variety and interest to the architecture, and be proportioned to appear more vertical than horizontal. Where awnings over windows or doors are used, the lowest edge of the awning shall be at least eight (8) feet above any pedestrian way, and shall not encroach into the public right-of-way without an encroachment permit issued by the dept. of public works.

Buildings placed on a side or rear property line where no setback is required shall contain neither doors nor windows along such façade so as not to restrict future development or re-development options of the adjacent property due to fire safety code restrictions. Otherwise they should be setback a minimum of 5-feet.

(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

(c) Protection of Important Public Views:

Development shall preserve distant terminal views of Lake Champlain and the Adirondack Mountains and important public and cultural landmarks from public places and along east-west public rights-of-way to the extent practicable. This shall not be construed to include similar views from exclusively private property.

Sensitivity shall be used in the massing of proposed development such that light and air is allowed to penetrate and some views may be preserved. Alternatives that extend access to such views by allowing public access into and through the proposed development are

encouraged. In no case shall development be permitted to span across the public rights-of-way in such corridors.

(d) Provide an active and inviting street edge:

Building facades shall be varied along the street edge by the integration of architectural features, building materials, or physical step-backs of the façade along its length. Large expanses of undifferentiated building wall shall be avoided. This may be accomplished by incorporating fenestration patterns, bays, horizontal and vertical façade articulations, the rhythm of openings and prominent architectural features such as porches, patios, bays, articulated bases, stepping back an elevation relative to surrounding structures, and other street level details. The use of traditional facade components such as parapet caps, cornices, storefronts, awnings, canopies, transoms, kick plates, and recessed entries are highly encouraged. In areas where high volumes of pedestrian traffic are desired, the use of architectural recesses and articulations at the street-level are particularly important in order to facilitate the flow of pedestrian traffic.

Non-residential buildings should provide visual access into the interior of building at the street level through the use of large transparent windows and/or window displays in order to create a dynamic and engaging public streetscape. The use of mirrored, frosted, or tinted glass shall not be permitted along an active pedestrian street-level façade. In contrast, residential buildings may be slightly recessed and/or elevated from the street-level in order to provide privacy. In such cases, visual interest along the streetscape can be provided through the use of landscaping, porches, and other similar features that offer a transition between public and private space.

Buildings in downtown districts that provide open space by way of building setbacks at the ground level shall utilize landscaping, street furniture, public art, sitting walls, fountains, etc. to maintain a sense of the existing street wall, define a sense of entry for the building and create a space that enhances the pedestrian's experience. Urban "open" space shall maximize accessibility for all individuals including the disabled, and encourage social interaction.

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

(f) Reduce energy utilization:

New structures should incorporate the best available technologies and materials in order to maximize energy efficient design. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practicable, in order to provide opportunities for the use of active and passive solar utilization.

(g) Make advertising features complementary to the site:

Where signs and other advertising features are proposed, the applicant shall meet the requirements as per Article 7 - Signs. The size, location, design, texture, lighting, and materials of all exterior signs and advertising features shall not detract from the use and enjoyment of proposed buildings or surrounding properties. National branding through signage and architecture shall be discouraged.

(h) Integrate infrastructure into the building design:

Exterior machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory features shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties.

Rooftop mechanicals, including heating and cooling devices and elevator equipment, should be incorporated into the structure's design, and shall be arranged to minimize their visibility from the street level. Such features, in excess of one foot in height, shall be either enclosed within the roof structure, outer building walls, or parapets, or designed so that they are integrated into the overall design and materials of the building. Where such rooftop features do not exceed ten percent (10%) of the total roof area, they may be considered "ornamental and symbolic features" pursuant to Sec. 5.2.7 for the purposes of measuring building height.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 5 Performance Standards.

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit, and intercom systems for multi-family housing should be incorporated where possible, to maximize personal safety.

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ARTICLE 7: SIGNS

Introduction: This Article of the Burlington Comprehensive Development Ordinance addresses the type, size, location, and design of all types of signs throughout the city. In the regulation of signs, it is important to understand that the City is considering only the physical aspects of the sign, not content. Signs can be considered and permitted individually, or as part of a "Sign Master Plan" that treats all signs within a development or complex as a group to encourage creativity.

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PART 1: GENERAL PROVISIONS

Sec. 7.1.1 Authority and Intent

These regulations are enacted under the provisions of 24 V.S.A. Section 4411 with the intent to ensure that all signs and advertising features are:

(a) Compatible with their surroundings;

(b) An enhancement to the city's visual environment;

(c) Orderly, readable, and safe;

(d) Harmonious in color, material and lighting with the building to which it relates; and,

(e) Non-distracting to motorists.

Sec. 7.1.2 Permit Required

All signs, regardless of size, shall require the issuance of a zoning permit before public display unless otherwise specifically exempt by this Article.

Sec. 7.1.3 Exemptions

The following types of signs are permitted in all parts of the city and shall be exempt from the requirements of this Article:

(a) Political Signs: Signs advertising political parties and/or candidates provided:

1. The size of such signs does not exceed thirty two (32) square feet;
2. Such signs are not erected earlier than forty five (45) days prior to the election to which they pertain; and,
3. All such signs are removed within three (3) days after the date of the election.

(b) Highway and Official Signs. Subject to approval by the city engineer, signs within the public right-of-way or along a public thoroughfare designed and placed in conformance with the Manual on Uniform Traffic Control Devices (MUTCD) published by the US Dept. of Transportation, and other official public signs or notices placed on a temporary basis for use by emergency services or public utilities.

(c) Directional Signs: Non-illuminated signs displayed on private property strictly for the direction, safety or convenience of the public, including such signs which identify the location of restrooms, telephone booths, parking area entrances or exits, freight entrances or the like, provided the area of any such sign shall not exceed two (2) square feet.

(d) Real Estate Sale/Rental Sign. One temporary non-illuminated sign advertising the sale or rental of the premises or indicating that such premises have been sold or rented, provided the area of any such sign shall not exceed six (6) square feet and shall be removed within three (3) days after the rental agreement has been executed or title has been transferred.

(e) Flags: Flags or emblems of religious, educational, or governmental organizations, not to exceed 15 square feet with no single dimension greater than five feet provided they not exceed three flags per 50 feet of frontage, and are flown from supports of the buildings or grounds being occupied by the organization or an individual.

(f) Contractor Sign. A single non-illuminated sign, not exceeding thirty-two (32) square feet in area, maintained on the premises while a building is actually under construction.

(g) Property Restriction Signs. Non-illuminated signs such as those announcing no trespassing; the private nature of a road, driveway, or premises; or regulating fishing or

hunting on the premises, provided the area of any such sign shall not exceed two (2) square feet.

(h) Holiday Decorations: Holiday decorations displayed for and during recognized federal, state, or religious holidays to the extent they do not interfere with traffic safety or in any way becomes a public safety hazard.

(i) Home Occupation Signs. One non-illuminated sign for a permitted home occupation not to exceed two (2) square feet.

(j) Residential Sign: A sign of less than two (2) square feet which serve only to indicate the name and address of residential occupants.

(k) Memorials/Interpretive Markers. Non-illuminated memorial, interpretive, signs or historical signs or tablets displayed by a public or educational non-profit agency strictly for the purpose of informing or educating the public provided the area of any such sign shall not exceed thirty two (32) square feet.

Sec. 7.1.4 Prohibited Signs

The following types of signs shall be prohibited in all parts of the city:

(a) No person shall paint, paste, brand, stamp or in any other manner place on or attach to any tree, rocks or other natural feature, utility pole, or other pole on any street or public right-of-way, any sign, excluding an official sign, or other advertisement, bill, notice, card or poster.

(b) Any off-premise sign which advertises or otherwise directs attention to any commodity or activity sold, offered or conducted elsewhere than on the premises upon which such sign is located unless otherwise provided for in Sec. 7.1.7.

(c) Any sign or supporting structure located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the department of public works.

(d) Any sign or other advertising device with visible moving or movable parts or with flashing animated or intermittent illumination (except signs indicating the time, date or weather conditions), and any sign that contains any fluorescent paint or device, including mirrors, which has the effect of intensifying reflected light.

Sec. 7.1.5 Temporary signs

The display of any such temporary sign(s) shall be limited to two non-consecutive 30-day periods per calendar year. Any other sign shall be considered permanent.

Sec. 7.1.6 Non-Conforming Signs

Any sign or other advertising device which does not conform to the provisions of this ordinance in terms of location, area, illumination, type, or height shall be deemed a non-

conforming sign. Non- conforming signs may remain in use at the same location, and ordinary maintenance and repair of such signs shall be permitted.

A non- conforming sign shall not be relocated, enlarged, replaced, redesigned, or altered in any way (except for a change of lettering, logo or colors using the same materials within an existing sign frame subject to obtaining a zoning permit) except to bring the sign into complete or substantially greater compliance with this Article. In such cases, the DRB may allow a sign to be in substantially greater compliance than the existing nonconforming sign subject to the development review criteria in Article 6.

Sec. 7.1.7 Off-Premise Signs

Off-premise signs shall not be permitted with the following exceptions:

(a) Political signs as regulated by Sec. 7.1.3;

(b) Temporary non-illuminated signs directing persons to temporary exhibits, shows or events provided:

1. The size of such sign does not exceed twelve (12) square feet in area; and,
2. Such signs are not posted earlier than two (2) weeks prior to the event and are removed within three (3) days after the event.

(c) Non-illuminated signs used for directing members or patrons to service clubs, churches or other nonprofit organizations provided:

1. Such signs indicate only the name of the facility and the direction of the facility; and,
2. Such signs do not exceed four (4) square feet in area.

(d) Sandwich board signs as regulated by the dept. of public works.

Sec. 7.1.8 Sign Permit Applications and Submission Requirements

A Sign Application as provided in Article 3 is necessary for those requests pertaining to all signs covered by the requirements of this Article.

Submission requirements shall include all the following, as applicable:

1. A completed application form, and signed by the property owner, along with the applicable fee;
2. A scaled rendering of the proposed sign indicating its dimensions in square inches or feet (length, width, height), and all materials and colors used;
3. Applications involving freestanding signs shall include a scaled site plan indicating the location of all existing and proposed signs on the lot and all setbacks in feet from the property lines and/or rights-of-way.
4. Applications involving parallel and projecting signs shall include a scaled building elevation indicating the location of all existing and proposed signs on the building face and the frontage dedicated to the establishment in linear feet.

5. Where applicable, the type and method of illumination (i.e. external, internal, or backlit), including the fixture style, placement, and bulb wattage and type;
6. The total square footage of all existing signs for the establishment; and,
7. Photographs of the building or site where the sign is proposed.

Such requests require only administrative review and approval pursuant to the procedural requirements of Sec. 3.2.7 and the requirements of this Article.

Sec. 7.1.9 Types of Signs

(a) Freestanding Signs:

The height of freestanding signs shall be measured from the official street grade to the top of the light standard or supporting standard, whichever is higher. Only one freestanding sign is permitted for each separate street frontage devoted to an establishment. A sign that stands without supporting elements, such as "sandwich sign" or interchangeable message board on wheels, is considered a freestanding sign. *(See Figure 7.1.9-1)*

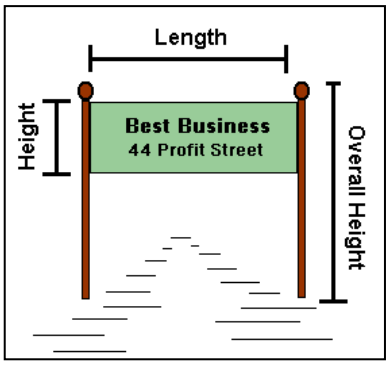

Figure 7.1.9-1 Freestanding Sign

(b) Kiosk Signs:

Kiosks erected on city sidewalks shall not occupy more than twenty-five per cent (25%) of the total width of the sidewalk measured at the location of the kiosk. The maximum height of a kiosk shall not exceed nine (9) feet. Kiosks shall not unreasonably interfere with the normal flow of pedestrian traffic. A bus shelter may be used as a kiosk. Kiosks are to be distinguished from "free-standing signs" which are governed by Section 21-5 of Chapter 21 of the Burlington Code of Ordinances.

(c) Parallel Signs:

Parallel signs shall not extend beyond the edge of any wall or other surface to which they are mounted, and shall not project more than eighteen (18) inches from the surface thereof. *(See Figure 7.1.9-2)*

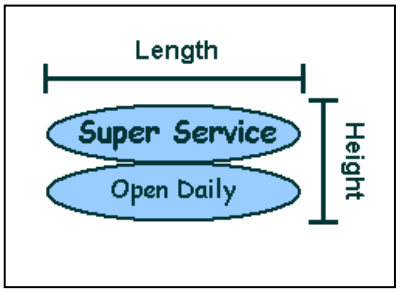

Figure 7.1.9-2 Parallel Sign

(d) Projecting Signs:

The content of projecting signs must be affixed flat to such canopy, marquee, or awning and is limited to announcing the name of the establishment or any on-premises show or event. *(See Figure 7.1.9-3)*

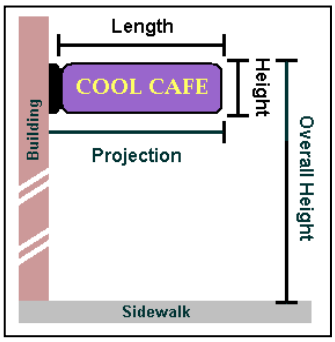

Figure 7.1.9-3 Projecting Sign

(e) Roof Signs:

No sign or advertising device attached to a building shall project above the roof or parapet line nor more than 12 inches out from the wall to which it is attached.

Sec. 7.1.10 Sign Location and Area

(a) Obstruction:

No sign shall be placed in such a way that it prevents clear and unobstructed view of a highway or official sign or of approaching or merging traffic.

(b) Setbacks:

No portion of any freestanding sign shall be located any closer to any property line than fifty per cent (50%) of the required yard setback for the district in which it is located.

(c) Calculation of Sign Area:

The following shall govern the calculation of a sign's area:

1. The area of a sign shall include all lettering, designs, or symbols, together with the background, whether open or enclosed, upon which they are displayed. Not included are any supporting framework incidental to the display itself.
2. Advertising relating to a specific product or products sold on the premises, or the utilization of corporate symbols, logos, or similar features, shall be included in the aggregate sign area permitted for each establishment.
3. Where a sign consists of individual letters or symbols attached, painted, or applied directly to a building, wall, or window, the area shall be considered to be the smallest rectangle encompassing all the letters and symbols. *(See Figure 7.1.10-1)*
4. In computing the area of a double-faced sign, only one side shall be considered if both faces are identical. Notwithstanding the above, if the interior angle formed by the two (2) faces of the double-faced sign is greater than forty-five (45) degrees, then both sides of such sign shall be considered in calculating the sign area.

Figure 7.1.10-1 Area of a sign affixed directly on a building.

5. The maximum allowable area of a sign shall include all permanent signs attached, painted, or applied to a building facade. If an establishment has walls fronting on two (2) or more streets, the sign area for each street shall be computed separately.

Sec. 7.1.11 Sign Lighting

In addition to the outdoor lighting requirements of Sec. 5.5.2, the following requirements shall pertain to the lighting of all signs:

(a) Signs shall be illuminated such that the illumination does not create glare or unduly illuminate the surrounding area.

(b) Externally illuminated signs:

1. Light fixtures used to illuminate signs shall be top mounted and shall direct the light downward toward the sign.
2. Ground mounted lights shall not be used unless under special circumstances where conditions of (1) above cannot be met and only if reviewed by the DAB and approved by the DRB.
3. Light fixtures shall employ the use of grids, hoods, or baffles, and aimed so that light is directed only onto the sign face. The light source or reflective surfaces of the fixture shall not be visible from the public way or surrounding properties.

(c) Backlit signs:

1. Backlit (i.e. reverse channel illumination) signs shall light lettering and logo and other related sign elements only, and lighting design shall be such that no excess light spill or glare results from the back lighting fixtures and/or source. The back lit sign shall not increase the measurable vertical light level at a point 20 feet distant from the sign in any direction.
2. In addition to other permitted lamp types, neon or similar lighting may be used to illuminate backlit signs.

(d) Internally illuminated signs:

1. Internally illuminated signs shall be designed with light lettering and graphics against a dark field.
2. The sign cabinet shall fully enclose the light such the light source is not visible from the exterior of the sign.
3. Internally illuminated signs shall be designed so that lamps produce no more than 200 initial lumens per square foot.

Sec. 7.1.12 Electronic Message Display

An electronic message display may be permitted for any grades 6-8 or secondary school, use as defined in Article 13 in any zoning district subject to the following requirements:

(a) An electronic message display shall not have any distracting appearance of motion including but not limited to flashing, blinking, shimmering, animation, moving video, or scrolling advertising.

(b) An electronic message display that is readily visible to drivers of vehicles on any public way shall have characters of sufficient size to be easily discerned and must not constitute a safety hazard by distraction of drivers.

(c) No more than one (1) electronic message display with two sides shall be permitted per grades 6-8 or secondary school.

(d) The area occupied by the message on an electronic message display may comprise no more than fifty (50) percent of the maximum total allowable sign area as provided in Article 7, Part 2.

(e) The message display area may have a maximum of three (3) lines of characters including all letters, numbers, spaces, or other symbols.

(f) An electronic message display shall consist only of alphabetic or numeric characters on a plain background and may not include any graphic, pictorial, or photographic images.

(g) A maximum of one color shall be used for an electronic message, which shall be on a dark background of one color.

(h) The message that is displayed may change no more frequently than once every two (2) minutes. When the display of an electronic message changes, it must change as rapidly as is technologically practicable with no phasing, rolling, scrolling, flashing, or blending.

(i) An electronic message display shall include internal ambient light monitors that automatically adjust the brightness level of its display according to natural ambient light conditions.

(j) An electronic message display shall contain a default mechanism that freezes the sign in one position if a malfunction occurs.

(k) Such electronic message displays shall only be permitted on the following streets:

- Main Street
- North Avenue

(l) The hours of operations for such electronic message displays shall be permitted from 6:00am to 10:00 pm except that secondary school use shall have no such limit on the hours of operation.

PART 2: DISTRICT REGULATIONS

Sec. 7.2.1 Regulation by District

Signs shall be permitted in each district as specified in Table 7.2.1-1 below and as further regulated by the provisions of this Part. Where other provisions in this Article are more restrictive than Table 7.2.1-1, the more restrictive provisions shall apply.

Table 7.2.1-1: Sign Regulation Summary

		Zoning District[4]			
Sign Type	**Dimensional Requirements**	**All RCO, Residential, and Institutional Districts**	**All Mixed Use Districts**	**All Enterprise Districts**	**(Reserved)**
Parallel	Size	20-sf	2-sf[1]	2-sf[1]	-
	Maximum Height	14-ft[2]	14-ft[2]	14-ft[2]	-
	Illumination	No	Yes	No	-
Projecting					
	Size	4-sf	4-sf	4-sf	-
	Maximum Height	12-ft[2]	14-ft	14-ft	-
	Illumination	No	Yes	No	-
Freestanding	Size	20-sf	½-sf[1]	1-sf[1]	-
	Maximum Height	6-ft	14-ft	6-ft	-
	Illumination	No	Yes[3]	No	-

1. Size is determined per each linear foot of building frontage allocated to the establishment
2. Or ceiling height of the first floor, whichever is less, except in D, D-T, E-LM and NMU-NAC where the sign may be above 14 feet as per Sec 7.2.3(a)4, Sec. 7.2.4 (c)2D, or Sec. 7.2.4(c)6C.
3. Illuminated freestanding signs are not permitted in NMU district.
4. No signs shall be permitted in the Urban Reserve District.

Sec. 7.2.2 Signs in Residential and RCO Districts

(a) Permitted Signs:

In addition to signs authorized under Sec. 7.1.3 and Table 7.2.1-1, only the following on-premise signs shall be permitted in any Residential and RCO districts.

1. Organization Signs. Parallel, projecting and freestanding signs representing governmental educational or religious organizations provided that the total area of all signs for any individual use shall not exceed twenty (20) square feet.
2. Agricultural Signs. One (1) sign advertising for sale agricultural produce raised on the premises, not to exceed two (2) square feet in area.
3. Non-residential Building Sign. One sign identifying a permitted non-residential building, use, or activity, provided the area of such sign shall not exceed twenty (20) square feet.

(b) Restrictions on Residential District Signs:

The following restrictions regarding type and placement of signs pertain to all signs in all Residential and RCO districts:

1. No sign shall be located within three (3) feet of any sidewalk or its vertical plane, except where such sign is attached to the face of the building at least eight (8) feet above the sidewalk and protruding no more than six (6) inches from the face of the building.

Sec. 7.2.3 Signs in Mixed Use Districts

Except as provided pursuant to Sec 7.2.4 below pertaining to signs on the Church Street Marketplace, the following on-premise signs may be permitted in any mixed use zoning district in addition to signs authorized under Sec. 7.1.3 and Table 7.2.1-1:

(a) Parallel Signs:

Parallel signs are permitted provided:

1. The total area of all parallel signs for each establishment shall not exceed two (2) square feet for each linear foot of frontage devoted to such establishment. If such establishment does not occupy any floor area on the ground level, other than an entryway, the maximum permitted sign area shall not exceed one (1) square foot for each linear foot of frontage devoted to such establishment.
2. Signs painted on or affixed to the inside or outside of windows shall be included in the computation under (1) above and (2) below, only if the combined area exceeds twenty-five (25) per cent of the area of the window which they occupy.
3. In no case, however, may the total area of all parallel signs exceed the lesser of two hundred (200) square feet or fifteen (15%) per cent of the area of the facade to which they are attached for the length of frontage devoted to such establishment.
4. A sign above 14 feet may be allowed where the first floor of the building has a floor-to-ceiling height in excess of 14 feet, subject to the following:

A. In no instance shall a sign be allowed above the floor level of a second story, or the cornice line of a structure whichever is lower;

B. Such signs shall be architecturally compatible with the design of the structure; and,

C. No such sign can be internally illuminated.

(b) Freestanding Signs:

Freestanding signs are permitted provided:

1. Only one such sign shall be permitted for each separate street frontage devoted to an establishment;
2. The area of any such sign shall not exceed one half (1/2) square foot per one (1) linear foot of frontage or a total of sixty (60) square feet, which ever is less; and,
3. The height of any freestanding sign shall not exceed fourteen (14) feet.

(c) Projecting Signs:

Projecting signs are permitted provided the sign:

1. Does not visually interfere with the view to and from adjacent properties;
2. Does not extend above any portion of the roof of the building to which such sign is affixed;
3. Has its lowest edge at least eight (8) feet above any pedestrian way; and,
4. Is vertically aligned.

(d) Signs connected to a canopy, awning, or marquee:

Signs connected to a canopy, awning, or marquee are considered projecting signs, and as such are governed by (c) above and the following:

1. All lettering and artwork is fixed flat to such canopy, marquee or awning; and,
2. All lettering is limited to the name of the establishment and announcing any on-premise show or event where applicable.

Sec. 7.2.4 Sign Regulations for Church Street Marketplace

The regulations of this section shall govern all signs located in the Church Street Marketplace District (hereinafter "district") as defined by Sec. 321 of the City Charter.

(a) Marketplace Commission Approval:

Prior to review and approval of an application under this ordinance for a sign, all signs, banners, kiosks, and similar advertising features must be reviewed by and consented to in writing by the Church Street Marketplace District Commission, which may make use of the Church Street Marketplace Design Guidelines in such reviews.

(b) Exemptions:

Signs at the following addresses shall be exempted from the provisions of this subpart. Such signs may be repaired or replaced so long as the repair or replacement is identical to the sign existing at the time of this ordinance. Where such repair or placement changes the appearance of the sign, the sign must meet all requirements of this subpart.

1. 34 Church Street;
2. 37 Church Street;
3. 75 Church Street (Bank Street facade);
4. 78 Church Street;
5. 107 Church Street; and,
6. 115 Church Street.

(c) Permitted Signs and Restrictions:

Unless otherwise noted, the following on-premise signs shall be permitted:

1. Parallel Signs:

A. The total area of all parallel signs for each establishment shall not exceed one and one-half (1.5) square foot of length of that portion of such wall devoted to such establishment.

B. If such establishment does not occupy any floor area of the ground level of the building, other than an entryway, the maximum permitted sign area shall not exceed ten (10) square feet.

C. Signs painted on or affixed to the inside or outside of windows shall be included in the computation of subsections (A) and (B) above, if their combined area exceeds thirty (30) per cent of the area of the window they occupy.

D. No signs, except window signs, shall be placed more than one (1) foot above the finish floor level of the second floor of a multi-story building to which they are attached. In no case shall such signs be placed more than fourteen (14) feet above the lowest point where the sidewalk meets the building line on the façade to which the sign is attached or, where there is a public canopy structure, above the top edge of the glass roof.

E. No parallel sign shall project more than twelve (12) inches from the face of the wall to which it is attached, except as otherwise provided in subsection (3)(b) below.

2. Projecting signs:

A. There shall be no more than one (1) such sign per establishment.

B. The total area of such a projecting sign shall not exceed eight (8) square feet.

C. The maximum projection of such sign beyond the building line shall not exceed four (4) feet.

D. The maximum height to the top of such a sign, as measured from the lowest sidewalk elevation at the building line on the façade to which the sign is attached, shall not exceed eighteen (18) feet.

E. The lower edge of such a sign must be at least seven (7) feet six (6) inches above the sidewalk directly beneath the sign.

F. Three-dimensional signs depicting the goods or services available on the premises are allowed within the limits specified in items (A) through (E) above. The area of the smallest rectangle, which can be drawn encompassing all the parts of the sign, shall measure the area of such signs.

G. Two-dimensional signs shall have both faces parallel, vertical and at right angles to the building line.

3. Canopies, marquees and awnings:

A. Canopies, marquees, and awnings attached to buildings are permitted subject to development review board review.

B. When a sign is affixed to such a canopy, marquee or awning, it shall satisfy the following requirements:

i. If placed parallel to the building facade, its area shall be deducted from the maximum allowable area of parallel signs; and,

ii. If at right angles, it shall be in substitution of any other projecting sign and shall meet the requirements of subsection (2) A, B, and D through G above for projecting signs.

4. Pedestrian Canopy Signs/Floor Mosaic Signs.

A. Permanent verbal and nonverbal signs, satisfying the conditions of (3) above for canopies, marquees and awnings, may be attached to the Church Street pedestrian canopy provided they also satisfy the following requirements:

i. Such signs may be attached only to front or back columns or to cross members below the glass;

ii. The owner of such a sign must bear the full cost of attaching the sign to the canopy structure and must also fully restore the galvanized and painted waterproofing membranes on the canopy, which may be damaged during attachment or removal of the sign;

iii. The maximum height of such sign measured from the base of the sidewalk directly below shall be nine (9) feet; and,

iv. No person shall have more than two (2) signs located in or attached to any part of the public right-of-way or public canopy system.

B. Mosaic signs are permitted in the floor of building entries and may fill the entire entry. Such signs may be placed within the sidewalk directly in front of building entries, subject to the following conditions:

i. The materials used in creating such a sign must be durable, nonskid paving materials, laid in a manner that is compatible with the existing

sidewalk paving and creating no discontinuities in sidewalk surface or changes in grade;

ii. The width of such a sidewalk sign shall be no greater than the width of the building entry and the depth shall be no more than seven (7) feet from the building line; and,

iii. The owner must bear the full cost of removing the existing sidewalk pavement, assume all liabilities for structural problems in the sidewalk or accidents which may occur due to such re-paving, and restore the original pavement should any problem arise.

5. Kiosks.

Permanent kiosks are permitted provided that the information displayed thereon shall serve a public purpose such as the names and locations of establishments on the block in which the kiosk is located or on the Church Street Marketplace as a whole, or provision of space for changing information such as posters and announcements; and provided that such kiosks meet the following location and dimensional requirements:

A. Such kiosk shall not impede the flow of pedestrian traffic;

B. Such kiosk shall not interfere with any publicly funded amenity;

C. The maximum area of the projected plan of such a kiosk shall be fifteen (15) square feet;

D. The maximum height of such kiosk shall be ten (10) feet; and,

E. Two-dimensional signs shall have both faces parallel, vertical and at right angles to the building line.

6. Other restrictions on type and placement of signs:

A. Freestanding on-premises signs are not permitted, except as otherwise provided below.

B. Internally illuminated signs are prohibited. Signs inside the building may be illuminated in any manner by a steady source of light. Signs external to the building envelope may be illuminated by a steady source of light external to the sign, except that linear outline neon signs with no background are permitted.

C. Fabric banners or streamers may be mounted on the façade of a building with the written approval of the city engineer, who must be satisfied as to the structural soundness of the mounting device to withstand wind loads. All liability in case of structural failure, however, shall remain the sole responsibility of the owner. The lower edge of such a banner or streamer must be at least fourteen (14) feet above the sidewalk directly beneath the sign. The maximum projection of such banner or streamer beyond the building line shall not exceed six (6) feet.

D. Temporary flags or banners may be attached to those light poles that have been structurally designed to receive them.

Sec. 7.2.5 Signs in Enterprise Districts

Signs in the Enterprise Zoning Districts shall be subject to the restrictions in Sec. 7.2.3 except as modified below:

(a) The total area of any parallel sign shall not exceed two (2) square feet for each foot of length of the front building wall or length of that portion of such wall devoted to such establishment, or two hundred (200) square feet, whichever is less;

(b) No parallel sign shall be painted on or affixed to the outside windows;

(c) Illuminated signs are prohibited;

(d) Freestanding signs shall not exceed six (6) feet in height;

(e) The area of any freestanding sign shall not exceed one half (1/2) square foot per one (1) linear foot of frontage or a total of sixty (60) square feet, which ever is less; and,

(f) No sign shall be located within three (3) feet of any sidewalk or its vertical plane, except where such sign is attached to the face of the building at least eight (8) feet above the sidewalk and is protruding no more than six (6) inches from the face of the building.

Sec. 7.2.6 Signs in the Institutional District

Signs in the Institutional Zoning District shall be subject to the restrictions in Sec. 7.2.3. Signs in the district which exceed these restrictions shall be permitted provided such sign is in accordance with a signage plan submitted by the institution and approved by the DRB.

PART 3: SIGN PLANS

Sec. 7.3.1 Intent

In order to provide for design quality, flexibility, compatibility, and creativity in larger buildings and building complexes with multiple tenants or owners, signs shall be allowed as specified in a sign master plan for the property as follows:

Sec. 7.3.2 Applicability

Within any Mixed Use, Enterprise, or Institutional zoning district, all signs located on a site, building or a complex of buildings located on a single lot with three or more tenants or owners may be granted a zoning permit if the signs comply with a sign master plan submitted by the building owner and reviewed and approved by the DRB under the provisions of Sec. 7.3.4 below and Article 6.

Sec. 7.3.3 Submission Requirements

A sign master plan shall be a comprehensive plan of all planned signs to be located on the site and on all facades of the building or building complex.

Information to be included in a sign master plan shall include, but not be limited to, the following:

(a) Total number of signs proposed, including any existing signs that will remain.

(b) Sketch of signs clearly indicating size/dimensions of all signs – including height above finished grade, lettering, logos or other graphics, colors, materials, texture.

(c) Types of signs – parallel, freestanding, projecting or window.

(d) Building elevations/photographs clearly illustrating the placement of signs on buildings.

(e) Site plan indicating location of freestanding signs and structures.

(f) Methods of illumination.

Sec. 7.3.4 Flexibility from Existing Standards

The sign master plan shall be compatible with the site and buildings and character of the surrounding area pursuant to the provisions of Article 6. While individual signs in the plan may vary from the restrictions of Sections 7.2.3, 7.2.4, 7.2.5 and 7.2.6 in the type and placement of signs on a structure or lot, no individual sign may exceed the size limitations as per Sec. 7.2.3(a)(3).

Except for such variations approved by the development review board by acceptance of a master sign plan pursuant to this Article, all other requirements, permits, and restrictions regarding signs shall remain in effect.

Sec. 7.3.5 On the Record Review

Pursuant to the authority of 24 V.S.A. §4471(b), any permit request for a Master Sign Plan approval by the DRB will be on the record, so that any appeal is not a de novo review, in accordance with the Vermont Rules of Civil Procedure.

ARTICLE 8: PARKING

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes the requirements for off-site parking throughout the city. It also includes parking for bicycles and requirements for institutional parking management plans.

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PART 1: GENERAL REQUIREMENTS

Sec. 8.1.1 Purpose

It is the purpose of this article to:

(a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;

(b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;

(c) Reduce congestion in the streets and contribute to traffic safety; and

(d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.

These regulations are enacted under the provisions of *24 V.S.A. Chapter 117*

Sec. 8.1.2 Applicability

No structure shall be erected or altered, or any use changed or established, unless or until the provisions of this Article have been met. No onsite parking shall be required or provided within the Urban Reserve District.

Sec. 8.1.3 Parking Districts

The demand for parking is highly dependent on the context within which a given use or structure is located. Factors such as proximity to other related uses, availability of public transportation, the density of land uses, and the ability to share parking with nearby uses are all factors which influence the demand for individual and dedicated off-site parking. For the purposes of this Article, the following three (3) Parking Districts as illustrated in Map 8.1.3-1 are hereby created:

(a) Neighborhood Parking District:

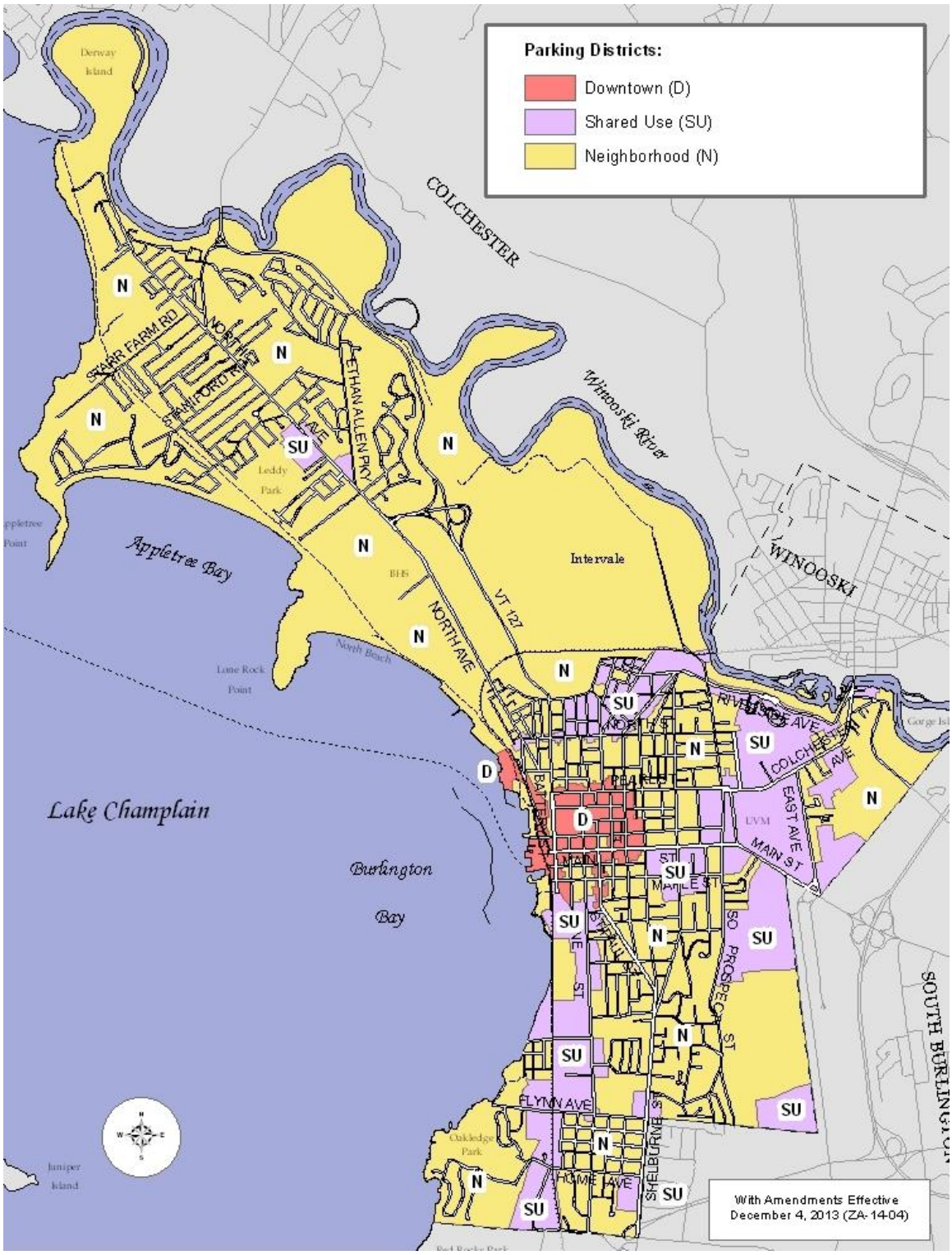
This parking district establishes the baseline of parking requirements throughout the city where the demand for offsite parking is largely dependent on the needs and characteristics of an individual site or land use.

(b) Shared Use Parking District:

This parking district reduces the requirements from the baseline standards recognizing that opportunities exist to share parking demand between related nearby land uses, and that travel to and between these uses may not be strictly automobile dependent.

(c) Downtown Parking District:

This parking district further reduces the requirements from the baseline standards recognizing that extensive sharing of parking demand between nearby land uses occurs; that a majority of travel to and between land uses is independent from an automobile; and that an array of public parking facilities and frequent transit service greatly reduces the need for independent parking for individual land uses.



Map 8.1.3 -1 Parking Districts

Sec. 8.1.4 Existing Structures

Any structure or land use lawfully in existence prior to the adoption of this ordinance shall not be subject to the requirements of this Article as long as the kind or extent of use is not changed, and provided further that any parking facilities now serving such structures shall not in the future be reduced below such requirements.

Sec. 8.1.5 Existing Structures - Change or Expansion of Use

Whenever there is an alteration or conversion of a structure or a change or expansion of a use which increases the parking requirements, the total additional parking requirements for the alteration, conversion, change, or expansion shall be provided in accordance with the requirements of this Article. A waiver may be requested pursuant to the provisions of Sec. 8.1.15.

Sec. 8.1.6 Existing Structures: Exemption in Downtown District

Any nonresidential use within a structure lawfully in existence prior to January 1, 2007 in any Downtown Parking District shall be exempt from the requirements of this Article when applying for a change to any other nonresidential use.

Sec. 8.1.7 Non-conforming Residential Structure

Where additions or conversions to existing residential structures within a Neighborhood or Shared Use Parking District add living space but do not add dwelling units, and such sites do not currently meet the parking standards of Sec. 8.1.8, one (1) parking space shall be provided for each additional room. Single detached dwellings shall be exempt from this requirement.

Sec. 8.1.8 Minimum Off-Street Parking Requirements

Parking for all uses and structures shall be provided in accordance with Table 8.1.8-1.

(a) Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the DRB upon recommendation by the administrative officer based upon the capacity of the facility and its associated uses.

(b) When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.

Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
RESIDENTIAL USES	**Per Dwelling Unit except as noted**		
Multi-unit attached dwelling units, studio units or 1-bedroom dwelling unit.	2	1	1
Single Family detached and Duplex	2	2	1
RESIDENTIAL USES - SPECIAL	**Per Dwelling Unit except as noted**		
Assisted Living	0.5	0.5	0.4
Bed and Breakfast (per room, in addition to single-family residence)	1	0.75	0.5
Boarding House (per two (2) beds)	1	0.75	0.5
Community House	1	0.75	0.5
Convalescent Home (per four (4) beds)	1	1	1
Dormitory (per two (2) beds)	1	1	1
Group Home (per two (2) beds)	1	1	1
Historic Inn (per room, in addition to single-family residence)	1	0.75	0.5
Sorority & Fraternity (per two (2) beds)	1	1	1
NON-RESIDENTIAL USES	**Per 1,000 square feet of gross floor area (gfa) except as noted**		
Adult Day Care (per two (2) employees)	1	1	1
Agricultural Use	None	None	None
Amusement Arcade	2	1	0
Animal Boarding/Kennel/Shelter	2.5	1.5	1
Animal Grooming (per grooming station)	1	1	0
Animal Hospitals/Veterinarian Office	3	2	1
Appliance & Furniture Sales/Service	2.5	1	1
Aquarium	1.3	1	1
Art Gallery	3.3	2.5	1
Auction Houses	3.3	2.5	1
Automobile & Marine Parts Sales	2.5	1.5	1
Automobile Body Shop	2 plus 1/bay	2 plus 1/bay	2 plus 1/bay
Automobile Repair/Service	2 plus 1/bay	2 plus 1/bay	2 plus 1/bay
Automobile Sales – New & Used	2	2	1

Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
Bakery - Retail	2.5	2.5	1
Bakery - Wholesale	2	2	1
Bank, Credit Union	2.5	2	1
Bar/Tavern	4	3	None
Beauty/Barber Shop (per station/chair)	1	1	None
Bicycle Sales/Repair	2.5	1	None
Billiard Parlor (per game table)	1	1	None
Boat Repair/Service	2	2	1
Boat Sales/Rental	2	2	1
Boat Storage	3	2	1
Bowling Alley (per lane)	3	2	1
Building Material Sales	3.3	2.5	1
Café (per four (4) seats)	1	None	None
Camp Ground (per camping space)	1	1	1
Car Wash (stacking spaces per wash bay)	4	4	4
Cemetery	None	None	None
Cinema (per four (4) seats)	1	1	None
Club, Membership	3.3	2.5	1
Community Center	3.3	2.5	1
Community Garden (per ten (10) plots)	1	1	None
Conference Center	3	2	1
Contractor Yard (per 1,000 gfa of office space)	2.5	2	2
Convenience Store	3	2	1
Convention Center	n/a	3	2
Courthouse	n/a	3.3	2
Crematory (per FTE employee)	1	1	1
Crisis Counseling Center	4	3	1
Daycare - Home (6 children or less)	None	None	1 drop-off
Daycare - Large (Over 20 children) (per two (2) employees)	1 plus 1 per 5 children	1 plus 1 per 5 children	2 drop-off
Daycare - Small (20 children or less) (per two (2) employees)	1	1	1
Dental Lab	2	1	None
Distribution Center (per 3,000 gfa)	1	0.75	0.75

Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
Dry Cleaning Plant	1.3	1	1
Dry Cleaning Service	2.5	2	2
Film Studio	3.3	2.5	1
Fire Station (per apparatus)	2	2	1
Food Processing	1.3	1	1
Fuel Service Station (per employee/shift)	1	1	1
Funeral Home (per four (4) seats)	1	1	1
Garden Supply Store (per 1,000 gfa of retail area.)	3	2	1
General Merchandise/Retail	3	2	None
Grocery Store	3	2	None
Hazardous Waste Collection/Disposal (per two (2) employees on the largest shift)	1	1	n/a
Health Club	3	2	1
Health Studio	2	1	None
Hospitals (per patient bed)	2	2	2
Hostel (per two (2) beds)	0.5	0.5	None
Hotel/Motel (per room)	1	0.75	0.75
Laundromats (per washing machine)	1	1	None
Library	1.3	1	None
Lumber Yard (per 1,000 gfa of retail area.)	3	2	1
Machine Shop/Woodworking Shop	1.3	1	1
Manufacturing	1.3	1	1
Manufacturing - Tour Oriented	1.3, plus 3 per 1,000 gfa devoted to patron use.	1.3, plus 2 per 1,000 gfa devoted to patron use.	1
Marina (per berth)	0.5	0.5	0.5
Medical Lab	2	1	None
Micro-Brewery/Winery	3	2	1
Museum	1.3	1	1
Office - General	2	2	2
Office - Medical, Dental	3	2	1
Open Air Markets	None	None	None
Operations Center - Taxi (per three (3) employees)	1	1	1

Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
Operations Center - Truck/Bus (per 3,000 gfa)	1	0.75	0.75
Park (per playing area)	5	None	None
Parking Garage – Private	None	None	None
Parking Lot – Private	None	None	None
Performing Arts Center (per four (4) seats)	1	1	None
Performing Arts Studio	1	None	None
Pet Store	2.5	1	None
Pharmacy	3	2	1
Photo Studio	2.5	1	None
Photography Lab	1	1	None
Police Station	2.5	2	2
Post Office	1.3	1	1
Post Office - Local	2	2	None
Printing Plant	1.3	1	1
Printing Shop	2	2	None
Public Transit Terminal	1 per 200 gfa of public waiting space	1 per 200 gfa of public waiting space	None
Public Works Yard/Garage	None	None	None
Radio & TV Studio	2	2	2
Rail Equip. Storage & Repair	None	None	None
Recording Studio	1.3	1	1
Recreational Facility - Indoor (per four (4) seats)	1	1	0.5
Recreational Facility - Outdoor (per playing field)	15	10	None
Recreational Facility - Outdoor Commercial	Larger of 1 per 4 seats or 15 per playing field	Larger of 1 per 4 seats or 10 per playing field	1 per 6 seats
Recreational Vehicle Sales – New and Used	2	2	1
Recycling Center - Large above 2,000 gfa	None	None	None
Recycling Center - Small 2,000 gfa or less	None	None	None
Research Lab	2.5	2	2
Restaurant	4	3	None
Restaurant – Take-Out	4	3	None
Salon/Spa	4	4	2

Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
School - Secondary (per Classroom)	7	5	2
School - Primary (per Classroom)	1.5	1.5	1.5
School - Trade/Professional	5	3	1
School, - Post-Secondary	2	2	2
Solid Waste Facility - Incinerator, Landfill, Transfer Station	None	None	None
Tailor Shop	2	1	None
Vehicle Salvage	None	None	None
Warehouse	0.5	0.35	0.35
Warehouse - Self Storage Facility	1 per resident manager, plus 1 per 100 leasable storage spaces	1 per resident manager, plus 1 per 100 leasable storage spaces	1 per resident manager, plus 1 per 100 leasable storage spaces
Warehouse - Retail	3.3	2.5	2.5
Wholesale Sales	1.3	1	1
Worship, Place of (per four (4) seats)	1	1	1

Sec. 8.1.9 Maximum Parking Spaces

The total number of parking spaces provided in all parking districts shall not be more than 125% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in Table 8.1.8-1. In no case shall the maximum number of required spaces be less than one (1) per unit of measurement (beds, units, 1000 gross sqft, etc.) for the use.

(a) **Exemptions**: The following shall reduce the maximum number of allowable spaces required by this section:

1. Structured Parking: Spaces provided within the footprint of a structure containing one or more other uses, including rooftop, at-grade, or below grade spaces shall not be counted towards the maximum, provided the floor area dedicated to parking is less than 50% of the total gross floor area of the structure;

2. Public Parking: Spaces provided and available for use by the public shall not be counted towards the maximum;

3. Carpool, Vanpool, and Car-Share Parking: Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program shall not be counted towards the maximum. Such spaces shall be reserved for such use and be signed or marked accordingly; and,

4. Alternative Fueled Vehicle Parking. Parking spaces dedicated for vehicles operating on primarily alternative fuels including but not limited to electric, natural gas, and hydrogen shall not be counted towards the maximum. Such spaces shall be reserved for such use and be signed and/or the space painted with the words "Alternative Fueled Vehicles Only."

5. Waiver of Maximum Parking Limitations. Parking in excess of the maximum parking limitation of this section may be waived by the DRB pursuant to the provisions of Sec 8.1.15 with the following additional requirements:

A. The applicant requesting the waiver shall also provide a peak demand parking study for two similar uses in the area; and,

B. The following additional review criteria shall be addressed regarding how:

(i) The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;

(ii) The proposed development demonstrates that its design and intended uses will continue to support high levels of existing or planned transit and pedestrian activity; and,

(iii) The site plan indicates where additional parking can be redeveloped to a more intensive transit supportive use in the future.

Sec. 8.1.10 Off-Street Loading Requirements.

Outside of the Downtown Parking District, every structure constructed after the effective date of this ordinance and used for non-residential use shall provide sufficient space for the unloading and loading of vehicles. The adequacy of any proposed loading areas shall be considered as part of the site plan and traffic circulation review. Such loading areas shall have access to a public alley or a public street in such a way to minimize conflicts with the circulation of other vehicles and pedestrians, be screened from public view, and provide safe and effective access to the city's street network.

Sec. 8.1.11 Parking Dimensional Requirements

The following standards in Table 8.1.11-1 below shall be used to ensure safe, adequate, and convenient access and circulation. These standards shall be adhered to except in situations where a lesser standard is deemed necessary by the DRB due to site topography, location of existing or proposed structures, lot configuration, and/or the need to preserve existing trees and mature vegetation.

Table 8.1.11-1 Minimum Parking Dimensions					
Angle of Parking Space	**Width of Space**	**Length of Space**	**Width of Angled Space**	**Length of Angled Space**	**Minimum Back-Up Length**
Standard Cars					
Parallel Parking	9.0’	22.0’	-	-	-
45° Angle	9.0’	20.0’	12.7’	20.5’	15.0’
60° Angle	9.0’	20.0’	10.4’	21.8’	18.0’
90° Angle	9.0’	20.0’	9.0’	20.0’	24.0’
Aisle width (one-way)	10’				
Aisle width (two-way)	20’				
Compact Cars					
Parallel Parking	8.0’	20.0’	-	-	-
45° Angle	8.0’	18.0’	11.2’	18.3’	13.0’
60° Angle	8.0’	18.0’	9.2’	19.8’	15.0’
90° Angle	8.0’	18.0’	8.0’	18.0’	20.0’

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.
3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce

the required parking for any other use utilizing the property on which it is located unless such shared use is approved by the development review board. The right to use the off-site parking must be guaranteed for the duration of the use as evidenced by a deed, lease, easement, or similar written instrument as may be approved by the City Attorney.

(b) Downtown Street Level Setback:

In order to maintain an active streetscape, any off-street parking occupying street level frontage in the Downtown Parking District shall be setback from the front property line in order to reserve street-level frontage for pedestrian-oriented uses.

(c) Front Yard Parking Restricted:

Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than eighteen feet (18') or less in width. The provisions of this subsection shall not be applicable during such times as when the winter parking ban pursuant to Section 20-56 of the Code of Ordinances is in effect. Where parking is provided outside the front yard setback, but either partially or entirely between the principle structure and the street, such parking shall be screened to the extent practicable from view from the public street.

(d) Shared Parking in Neighborhood Parking Districts:

In the event that a mix of uses occupy a single structure or parcel of land located in a Neighborhood Parking District, the total requirement for off-street parking shall be the sum for all individual uses unless it can be shown that the peak parking demands are offset and spaces can be shared (for example: retail and residential, or theater and office uses). In such cases the parking required must at least meet the requirements for Shared Use Districts.

(e) Single Story Structures in Shared Use Districts:

In the event that a single story structure is proposed to be located in a Shared Use District, the total requirements for off-street parking shall be calculated as for a Neighborhood Parking District. This provision does not apply to single story structures existing and occupied as of the effective date of this ordinance.

(f) Joint Use of Facilities:

The required parking for two (2) or more uses, structures, or parcels may be combined in a single parking facility if it can be shown by the applicant to the satisfaction of the DRB that the use of the joint facility does not materially overlap with other dedicated parking in such facility, and provided that the proposed use is evidenced by a irrevocable deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use acceptable to the city attorney.

(g) Availability of Facilities:

Required parking pursuant to this Article shall be available for parking of operable passenger vehicles used by residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials. The distribution of parking spaces for any and all individual uses will be required to be arranged in such a way as to ensure optimal access and use by the patrons of such use(s).

(h) Compact Car Parking:

Compact parking spaces may be used in parking structures or lots. Up to fifteen (15%) percent of the total parking spaces in a parking garage may be designated for compact cars. Such spaces shall be signed or the space painted with the words "Compact Car Only."

Sec. 8.1.13 Parking for Disabled Persons

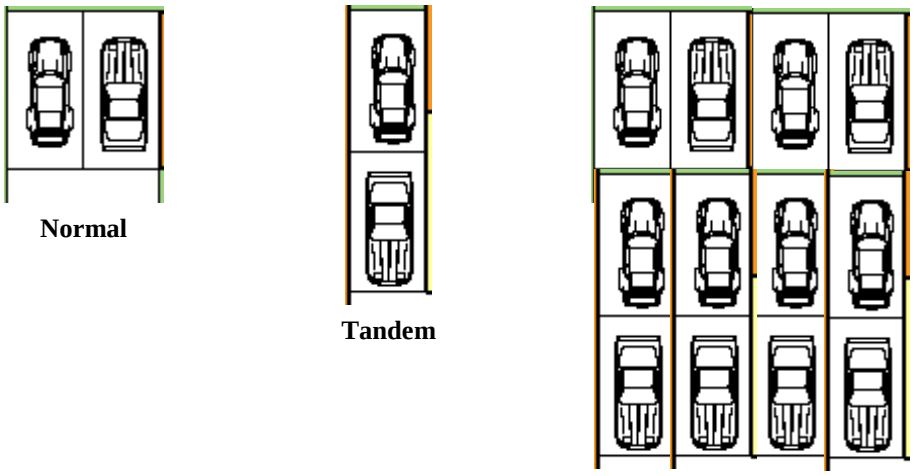
Parking spaces for disabled persons shall comply with current the Americans with Disabilities Act guidelines and shall be at least eight feet (8') wide with an adjacent access aisle at least five feet (5') wide. Parking access aisles shall be part of an accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Painting of the paved area for the dedicated parking spaces alone shall not be sufficient as the sole means of identifying these spaces.

Sec. 8.1.14 Stacked and Tandem Parking Restrictions

Except as otherwise provided below, all parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle.

(a) Stacked or valet parking may be allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces continue to apply for stacked parking.

(b) Tandem Parking may be allowed for single family detached dwelling units, accessory apartments, duplex dwelling units, and dedicated employee-only parking signed as such. In no case shall more than 4 parking spaces (2 pairs) in total be provided in tandem on any one lot.



Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a)7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

(a) A calculation of the parking spaces required pursuant to Table 8.1.8-1.

(b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.

(c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:

1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;
2. Anticipated parking demand by time of day and/or demand by use;
3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;
4. Availability and frequency of public transit service within a distance of 800-feet.
5. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,
6. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.

(d) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:

1. A telecommuting program;
2. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;
3. Implementation of a car-share program;
4. Development or use of a system using offsite parking and/or shuttles; and,
5. Implementation of public transit subscriptions for employees.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

PART 2: BICYCLE PARKING

Sec. 8.2.1 Intent

It is the intent of this subpart to:

(a) Provide bicycle access to employment, commercial destinations, and other transportation alternatives;

(b) Provide safe and adequate bicycle parking facilities that:

1. Meet the demands of the use of the property;
2. Reduce hazards to pedestrians;
3. Enhance the visual quality of the city;
4. Reduce the adverse impacts associated with the bicycle parking on parking meters, street trees, etc; and,

5. Encourage the use of bicycles as an alternative to motor vehicle transportation, thereby reducing traffic congestion, influencing modal split, and increasing the safety and welfare of residents.

Sec. 8.2.2 Provisions

Bicycle parking requirements shall apply to new development, building expansions, or occupancy changes requiring a zoning permit where automobile parking is required pursuant to Part 1 of this Article.

Sec. 8.2.3 Existing Structures

Any expansion or change of use proposed for an existing structure where four (4) bicycle spaces or less would be required shall be exempt from providing those spaces.

Sec. 8.2.4 Joint Use of Bicycle Parking Facilities

Required bicycle parking spaces for two (2) or more adjacent uses or structures may be satisfied by the same parking facilities used jointly, provided that such right of joint use and maintenance is evidenced by a deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use, and that the facilities are within 200 feet of the building or parcel housing the use.

Sec. 8.2.5 Bicycle Parking Requirements

Bicycle parking for all uses and structures in all Parking Districts shall be provided in accordance with Table 8.2.5-1.

(a) Where no requirement is designated, and the use is not comparable to any of the listed uses, bicycle parking requirements shall be determined by the DRB upon recommendation of the city's bicycle and pedestrian planner based upon the capacity of the facility and its associated uses.

(b) When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.

(c) Where bicycle parking is required, the minimum number of bicycle parking spaces provided at each site shall be two (2) and the maximum shall be fifty (50), not including long term parking.

Table 8.2.5-1 Bicycle Parking Requirements

	Specific Use	Long Term Spaces	Short Term Spaces
	Per Square Feet of Gross Building Area, except as noted otherwise		
RESIDENTIAL			
Household Living	Multi unit	1 per 4 units	1 per 10 units
Group living	Elderly housing	1 per 10 units	1 per 10 units
	Fraternity, sorority, & dormitory	1 per 4 residents	1 per 8 residents
Temporary lodging	Hotel, motel, bed & breakfast, boarding house, campground	1 per 20 rooms/sites	2 per 20 rooms/sites
COMMERCIAL			
Office		1 per 5,000 sq. ft.	1 per 10,000 sq. ft.
	Medical, dental	1 per 5,000 sq. ft.	1 per 8,000 sq. ft.
Retail sales and service		1 per 20,000 sq. ft.	1 per 5,000 sq. ft.
	Auto, boat, motorcycle related sales, service and retail	1 per 30,000 sq. ft.	1 per 10,000 sq. ft.
	Restaurants, bars, taverns	1 per 10 employees	6% of occupancy load
INDUSTRIAL			
Industrial, manufacturing, production, and warehousing		1 per 20,000 sq. ft.	1 per 50,000 sq. ft.
PERMITTED PUBLIC/INSTITUTIONAL USES			
Colleges or Universities	Excluding dormitories	1 per 20,000 sq. ft.	3 per 5,000 sq. ft.
Daycare, except home		1 per 20,000 sq. ft.	1 per 10,000 sq. ft.
Schools	Grades 2-5	1 per 20,000 sq. ft.	2 per classroom
	Grades 6-12	1 per 20,000 sq. ft.	4 per classroom
Community Services	Museums, aquariums, libraries, community centers, municipal buildings, post office	1 per 20,000 sq. ft.	3 per 5,000 sq. ft.
Medical Center	Excluding medical or dental offices	1 per 10,000 sq. ft.	1 per 20,000 sq. ft.

Worship, places of		1 per 20,000 sq. ft.	1 per 40 seats
Recreation, government owned	Parks	Per DRB review	1 per 10 daily users
OTHER			
Terminal	Taxi/Bus/Passenger/ Ferry	As determined during Site Plan Review by DRB	As determined during Site Plan Review by DRB
Parking	parking lot, garage; public or private	4, or 5% of automobile spaces, whichever is greater	None

Sec. 8.2.6 Limitations

(a) No bicycle parking spaces required by this standard shall be rented or leased to employees or residents residing at the location at which bicycle parking is required; however, a refundable deposit fee may be charged. This does not preclude a bike parking rental business.

(b) Providing bicycle racks on the public right of way must be approved by the department of public works.

Sec. 8.2.7 Location & Design Standards

(a) All bicycle parking facilities shall be installed in accordance with the department of public works "Bicycle Parking Guidelines."

(b) Bicycle parking or a sign leading thereto shall be visible from the main entrance of the structure or facility.

(c) Bicycle parking shall be visible, well lit, and as convenient to cyclists as auto parking.

(d) Bicycle parking facilities shall provide sufficient security from theft and damage. They shall be securely anchored to the ground, shall allow the bicycle wheel and frame to be locked to the facility, and shall be in a location with sufficient lighting and visibility.

(e) Bicycle parking facilities shall be visually compatible and of a design standard consistent with their environment and the development standards of Art 6.

(f) Required bicycle parking spaces shall be of a sufficient dimension to accommodate a full-sized bicycle, including space for access and maneuvering.

(g) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles.

(h) The surfacing of bicycle parking facilities shall be designed and maintained to be clear of mud and snow.

(i) Bicycle parking racks and lockers shall be anchored securely.

(j) Existing bicycle parking may be used to satisfy the requirements of this section provided the rack design is consistent with the department of public works "Bicycle Parking Guidelines."

Sec. 8.2.8 Long Term Bicycle Parking

(a) Long term bicycle parking shall:

1. Protect bicycles from the weather;
2. Provide secure storage that prevents theft of the bicycle and accessories; and,
3. Be located in a well lit area.

(b) Long Term bicycle parking requirements can be met in any of the following ways:

1. A bicycle storage room;
2. Bicycle lockers, pods, or lids;
3. Lockable bicycle enclosure; or
4. By certifying to the city's bicycle and pedestrian planner that employees may store their bicycles within their workspace.

(c) When long term parking is required, showers and changing facilities for employees shall be required in accordance with Table 8.2.8-1, except for parking garages, parking lots, and residential units, which are exempt from the requirements of this section. Shower and changing facilities shall be provided onsite or through an agreement for offsite use.

Table 8.2.8-1 Shower and Changing Facilities

Required Long Term Spaces	Minimum Number of Required Shower and Changing Facilities
1-4	1
5-10	2
11-20	3
21+	4 plus one for each additional 15 Long Term spaces or part thereof

Sec. 8.2.9 Waivers from Bicycle Parking Requirements

(a) Requests for reductions to bicycle parking requirements shall be made and documented separately from requests made for reductions in the automobile parking requirements.

(b) The requirements of Sec. 8.2.5 may be reduced upon approval of the DRB based upon recommendation of the city's bicycle and pedestrian planner to the extent that the applicant can demonstrate the regulation is unnecessarily stringent due to:

1. The characteristics of the use, structure, or facility makes the use of bicycles unlikely;
2. The characteristics of the site or area preclude the installation of bicycle parking; and/or,
3. Results from a documented survey of bicycle parking use in similar situations.

(c) For reductions granted due to the characteristics of a site or area, applicants must mitigate the loss of bicycle parking through contribution into the capital fund. The amount shall be equal to the cost required for installation of required bicycle parking.

PART 3: INSTITUTIONAL PARKING PLANS

Sec. 8.3.1 Intent

It is the intent of this part to:

a. Ensure that city streets in nearby neighborhoods are not unfairly burdened by parking demands from post-secondary educational or medical institutions; and,

b. Recognize the unique ability of institutions to manage their own parking resources in a comprehensive and creative way.

Sec. 8.3.2 Applicability

Each post-secondary educational or medical institution within the Institutional district shall provide off-street parking and loading facilities consistent with its needs according to the standards specified in this Article.

In order to accomplish the intent of this Part, each such institution, either individually or collectively, shall prepare, maintain, and monitor a comprehensive parking management plan for their respective campus or institution.

Sec. 8.3.3 Institutional Parking Management Plans

In addition to the requirements of Sec. 8.1.15 above, an Institutional Parking Management Plan shall include the following:

(a) Information specifying the proposed number of students (full-time, part-time, commuter, on-campus, off-campus, and continuing education), faculty and staff (full-time and part-time), patients and visitors being served by the institution and anticipated over the ensuing five-year period.

(b) An analysis of the anticipated parking demand by user group, time of day and/or demand by use;

(c) Information specifying the number and composition of the institution's vehicle fleet, where these vehicles are regularly kept, and designated "service vehicle-only" parking;

(d) Programs, policies, or incentives used to reduce or manage the demand for parking which may include but are not limited to:

1. Policies which restrict and/or prohibit the bringing of vehicles to the institution for various users or groups of users;
2. Programs to encourage the use of public transit, walking and bicycling;
3. Implementation of a parking permit system to allocate parking throughout the system; and,

(e) Implementation of a monitoring, compliance and enforcement system to measure and ensure compliance with the plan.

Sec. 8.3.4 Review and Approval of Institutional Parking Management Plans

Such a plan shall require review and approval by the DRB, after consultation with the planning commission, and after a public hearing. In order to approve a proposed Institutional Parking Plan, the DRB shall find:

a. the proposed Institutional Parking Plan adequately serves existing and proposed development by the institution(s);

b. the proposed Institutional Parking Plan more effectively meets the intent of this Article and the goals of the municipal development plan than would strict adherence to the underlying requirements of this Article.

Such a plan, if approved by the DRB, shall be applicable for a period not to exceed five (5) years, and may be amended as necessary pursuant to the requirements of this Part. The institution shall provide a report annually to the administrative officer regarding the implementation and performance of the approved plan.

Sec. 8.3.5 Review and Approval of Applications for Future Development

In reviewing any application for development from a post-secondary educational or medical institution within the Institutional district, the DRB shall find that the proposal is consistent with an approved Institutional Parking Plan.

Any development proposed by a post-secondary educational or medical institution within the Institutional Campus district that is found not to be consistent with an approved Institutional Parking Plan shall only be approved pursuant to the underlying parking requirements of Parts 1 and 2 of this Article.

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ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes requirements for including affordable housing units within certain residential developments, and ensures the replacement of housing units that may be lost as a result of redevelopment.

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PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

(a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;

(c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,

(d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

Sec. 9.1.2 Authority

These regulations are enacted under the authority of 24 V.S.A. Chapter 117.

Sec. 9.1.3 Inclusionary Units, General Description

Inclusionary units shall include those units in a covered project, which are regulated in terms of:

(a) Selling price or rent level;

(b) Marketing and initial occupancy; and,

(c) Continued requirements pertaining to re-sale, rent or carrying cost increases, as specified in this article.

Sec. 9.1.4 Miscellaneous Definitions

"Affordable housing" or "Affordable" shall refer to a housing that is owned or rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income or 80 percent of the standard metropolitan statistical area (MSA) income, as defined by the US Department of Housing and Urban Development, and the total cost of the housing, including principal, interest taxes and insurance and condominium association fees, if owned housing, or the total cost of the housing, including rent, utilities and condominium association fees, if rental housing, is not more than thirty per cent (30%) of the household's gross annual income.

"Carrying charges" refer to costs associated with housing co-operatives.

"Certificate of Inclusionary Housing Compliance" shall refer to a certificate issued by the Manager of the Housing Trust Fund, which certificate provides legal assurance that a developer's obligations under this article are being satisfied.

"Housing Trust Fund (HTF)" shall refer to a special revenue account established by the Burlington City Council for purposes related to the creation, promotion, and preservation of long-term affordable housing for very low, low, or moderate income households.

- **"Housing Trust Fund Administrative Committee"** shall refer to an administrative committee consisting of the Manager of the Housing Trust Fund, an appointee of the City Council President and a designee of the Mayor responsible for the administration of the HTF by resolution of the City Council.
- **"Manager of the Housing Trust Fund" or "Manager"** shall be the Director of the City's Community and Economic Development Office, unless otherwise designated by the City Council by resolution.

"Median Income" shall refer to the income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income consists of all households in the geographic area. The median is the middle value when all are arranged from highest to lowest. The median income that is current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under this article.

Sec. 9.1.5 Applicability

This ordinance provision applies to any development of five or more residential units in a single structure shall be subject to the standards of this article. Multiple developments or projects by the same applicant or responsible party within any consecutive twelve (12) month period that in the aggregate equal or exceed the above criteria shall be subject to these regulations.

Except as otherwise provided in this ordinance, these regulations shall apply in the instances specified below.

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

(b) Where units are created using the Adaptive Reuse or Residential Conversion criteria pursuant to the provisions of Art 4, Sec 4.4.5, this article shall be applicable when at least ten (10) or more dwelling units are created.

(c) An applicant may elect to be subject to the provisions of this article if new units are added to existing units for a total of 5 or more units.

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) Projects that are located within an Institutional (I) zoning district that are developed by an educational institution for the exclusive residential use and occupancy by that institution's students;

(b) Those dwelling units in a covered project that are produced as "replacement units," pursuant to Article 9, Part 2 and which do not produce any net new units; and,

(c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

Notwithstanding any other provision of this ordinance, no certificate of occupancy for a project covered by this chapter shall be granted unless and until a Certificate of Inclusionary Housing Compliance has been issued by the Manager of the city's Housing Trust Fund.

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.9-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

Table 9.1.9-1 Inclusionary Zoning Percentages

If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.10 and are subject to marketing and continued affordability provisions (Sec. 9.1.11 and Sec. 9.1.12) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%

Development in any Waterfront district (RM-W, RL-W, DW) or 180% of median income and above in any other district	25%

Sec. 9.1.9 Percentage of Inclusionary Units

All covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units).

(Example: a moderately-priced, multi-family housing development with no commercial space on a one-acre lot in the RH would be able to provide 46 units on-site. Of those, 46 x .15 (15%) = 6.9 (rounded up to 7) units of a total of 46 must be inclusionary units. If the applicant can only provide 20 of such moderately priced units on the site, 15% of the 20 units, i.e. 20 units x .15 = 3 units shall be Inclusionary units).

Sec. 9.1.10 Income Eligibility

Inclusionary Units required under this Article, shall be marketed for purchase or rent to households earning less than the median income for the Burlington Metropolitan Statistical Area, adjusted for household size, as specified in Sec 9.1.12. The median income shall be determined on the basis of the data which is most recent to the time that the units are ready for occupancy.

Sec. 9.1.11 Calculating Rents and Selling Prices

The following provision shall apply to the calculation of rents, selling prices and carrying charges, and to the relationship between unit size and household size:

(a) Inclusionary rental units shall be rented at a price which is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;

(b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy-five percent (75%) of median income adjusted for household size;

(c) In calculating the rents or carrying charges of inclusionary units, the following relationship between unit size and household size shall apply:

Unit Size	Household Size Equivalent
Efficiency Units:	1 Person Household;
One-Bedroom Units:	1.5 Person Household (average of one and two-person household incomes);
Two-Bedroom Units:	3 Person Household;
Three-Bedroom Units:	4.5 Person Household (average of four and five-person household incomes);
Four-Bedroom Units:	6 Person Household.

With respect to inclusionary units offered for sale, prices will be calculated on the basis of:

(d) An available fixed-rate thirty-year mortgage, consistent with a "blended rate" for Burlington banks plus the Vermont Housing Finance Agency as determined and declared semi-annually (January and July) by the Housing Trust Fund Manager. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate thirty-year mortgage at this lower rate from the Vermont Housing Finance Agency for all of the required inclusionary units;

(e) A down payment of no more than five percent (5%) of the purchase price;

(f) Annual property taxes; and

(g) Homeowner insurance, homeowner association fees or condo fees. Homeowner association fees shall be calculated in the same manner as the fees for the market units in the same development.

Sec. 9.1.12 Additional Density and Other Development Allowances

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

(a) Any covered project shall be entitled to an increase in the maximum coverage allowed for the site on which the project is located following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site. Calculations for these entitlements shall be based on the following tables:

Table 9.1.13-1 Density/Intensity Allowance Table

Zoning District	Additional Allowance	Maximum Units/Acre	FAR
RH	15%	46	n/a
RM, RM-W	20%	25	n/a
RL, RL-W	25%	8.75	n/a
D, DT, DW	n/a	n/a	0.5 FAR+10' height set back 10' along street facade
NMU, NAC, NAC-R, BST	n/a	n/a	0.5FAR+10' height set back 10' along street facade

Table 9.1.13-2 Lot Coverage Allowance Table

Zoning District	Additional Allowance	Maximum Lot Coverage
RH, NMU, NAC, NAC-R	15%	92%
RM-W	20%	72%
RM	20%	48%
RL, RL-W	25%	44%

(b) Other possible allowances for the provision of Inclusionary Units may include:

1. A waiver of up to 50% waiver of parking spaces as outlined in Article 8, Sec. 8.1.14,
2. A waiver of a portion of the impact fees associated with the Inclusionary units, pursuant to the Art. 3, Part 3 Impact Fee Administrative Regulations.

(c) The allowances provided for herein may be declined at the option of the applicant;

(d) With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space

(e) All provisions of Sec. 9.1.8 through 9.1.11 shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.13 Off-Site Option

The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project that is not located within a waterfront zoning district to comply with the requirements of Sec. 9.1.9 and 9.1.12 by constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:

(a) The number of inclusionary units to be provided by the developer or by the developer's designee through off-site development shall be no fewer than 1.5 times the number otherwise required by this Article;

(b) No additional development provisions as outlined in this Article shall be granted to the units constructed off-site or to the project;

(c) Off-site inclusionary units must be located within the City of Burlington;

(d) All of the provisions of Sections 9.1.9 through 9.1.12 shall apply without exception to off-site inclusionary units under the provisions of this section;

(e) Waiver of provisions from the HTF with regard to minimum square footage and bedroom count relative to average size and bedroom count in a covered project is not permitted; and

(f) Should the City Council decide that a payment in lieu is acceptable in exchange for not providing the inclusionary units on or off of the site, the payment shall be $100,000, adjusted annually in accordance with the CPI, commencing January 1, 2007, per the number of units required in (a) above**.**

Sec. 9.1.14 General Requirements for Inclusionary Units

All covered projects must comply with the requirements set forth below.

(a) In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project;

(b) Inclusionary units may differ from the market units in a covered project with regard to interior amenities and gross floor area, provided that:

1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; and

2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units; and

(c) The gross floor area of the inclusionary units is not less than the following minimum requirements, unless waived by the DRB using the following criteria:

1. All of the units being provided with a specific bedroom count are smaller than the standards outlined below;

2. More than the required number of inclusionary units are provided on site, not all shall be subject to bedroom mix and size requirement; or,
3. The units have an efficient floor plan (meaning that less than 5% of the square footage is devoted to circulation) and the bedroom size(s) is a minimum of 144sf or 12'x12'.

One bedroom	750	square feet
Two bedroom.....	1,000	square feet
Three bedroom.....	1,100	square feet
Four bedroom	1,250	square feet

(d) Upon demonstration of inability to sell units to income eligible residents earning 75% of the median income, the Manager of the HTF may extend income eligibility to allow priority in the sale of inclusionary units to households earning as much as eighty percent (80%) of median income, adjusted for household size and to households residing in Burlington at the time that these units are offered for sale or lease;

(e) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency (see Sec 9.1.15(e)); and

(f) The final calculations for the number of inclusionary units shall be determined by the Manager prior to the issuance of the zoning permit. If there is any change in the project due to sales prices for these units that increases the number of inclusionary units required, such modifications shall be determined by the Manager and communicated to the administrative officer prior to the issuance of a certificate of occupancy for the covered project. The rental or sales price of the inclusionary units shall also be determined by the Manager prior to the issuance of a certificate of occupancy.

Sec. 9.1.15 Marketing of Inclusionary Units

Any applicant developing a covered project shall adhere to the following provisions with respect to the initial offering of inclusionary units for sale or rental:

(a) Trust Fund Notification.

The developer shall notify the Manager of the HTF, as defined in Section 18-400 of the Burlington Code of Ordinances, of the prospective availability of any inclusionary units at the time that the building permit is issued for such units in a covered project;

(b) Trust Fund Option.

The Manager of the HTF, in consultation with the other members of the HTF Administrative Committee, shall then have an exclusive option for one hundred

twenty (120) days to purchase each inclusionary unit offered for sale from the developer unless waived or assigned;

(c) Trust Fund Waiver.

If the Manager of the HTF, in consultation with the other members of the HTF Administrative Committee or its designee, fails to exercise its option by failing to negotiate and sign a purchase and sale agreement for the inclusionary units, or if the Manager declares its intent not to exercise its option, the developer shall offer the units for purchase to households earning less than the median income referenced in Section 9.1.12. If requested by the developer, the Manager of the HTF shall execute documents that may be recorded in the Burlington Land Records to evidence said waiver of the option;

(d) Time of Closing.

Closing on inclusionary units purchased by the Housing Trust Fund Manager shall occur on or after the time of issuance of the certificate of occupancy. If the Housing Trust Fund Manager fails to close on these inclusionary units, the developer shall offer the unit for purchase or rent to households earning less than the median income referenced in Section 9.1.12, adjusted for household size;

(e) Transfer of Option.

On or before a purchase and sale agreement is executed between the developer and the manager, the Manager may assign the options specified in this section to any "designated housing agency," as defined by the provisions of Article 5 of Chapter 18 of the Burlington Code of Ordinances, in which event it shall notify the developer of such assignment and the agency to which it has assigned the option, which agency shall deal directly with the developer, and shall have all of the authority of the Manager, as provided under this section.

(f) Rentals.

In the case that the inclusionary units are being offered for rent rather than for sale, the Manager shall also be notified in the manner prescribed by subsection (a) regarding Trust Fund Notification, and the Manager and developer shall cooperate in order to rent such units to individuals meeting the income guidelines of Sec 9.1.12(a).

Sec. 9.1.16 Continued Affordability Requirements

All covered projects shall comply with the following provisions to ensure continued affordability of inclusionary units provided under this article and units required to be continually affordable under Section 9.1.9.

(a) 99-Year Requirement.

All inclusionary units shall remain affordable for a period of no less than ninety-nine (99) years commencing from the date of initial occupancy of the units. Where a developer can establish that regulatory or other considerations make it impossible to provide the required inclusionary units if subject to the full extent of

this requirement, the development review board may modify the duration of the period of continued affordability only to the extent necessary to render the development feasible;

(b) Deed Restrictions.

Provisions to ensure continued affordability of inclusionary units shall be embodied in legally binding agreements and/or deed restrictions satisfactory to the City Attorney's Office, which shall be prepared by the developer, but which shall not be recorded or filed until reviewed and approved by the Housing Trust Fund Manager with such modifications as it may deem necessary to carry out the purpose of this article. Such review and approval shall be completed within forty-five (45) days following date of submission of such documents to the Manager of the HTF. Failure of the Manager to respond within the forty-five (45) day period as set forth herein shall constitute approval of the documents;

(c) Resale Restrictions.

Provisions to ensure continued affordability of inclusionary units offered for sale shall include a formula for limiting equity appreciation to an amount not to exceed twenty-five percent (25%) of the increase in the inclusionary unit's value, as determined by the difference between fair market appraisal at the time of purchase of the property and a fair market appraisal at the time of resale, with such adjustments for improvements made by the seller and necessary costs of sale as may be approved by the Manager, with a recommendation from the Administrative Committee of the HTF;

(d) Rent Increases

Provisions for continued affordability of inclusionary rental units shall limit annual rent increases to the percentage increase in the median household income within the Burlington Metropolitan Statistical Area (MSA), except to the extent that further increases are made necessary by hardship or other unusual conditions, and shall provide that no rent increase may take effect until it has received the approval of the Housing Trust Fund Administrative Committee in writing;

(e) Purchase Option

Provisions for continued affordability of inclusionary units shall provide that the Housing Trust Fund Administrative Committee or its designee shall have an exclusive option to purchase any inclusionary unit when it is offered for resale for a period of one hundred twenty (120) days from the date on which the HTF Administrative Committee is notified of the availability of the unit; and

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy-five percent (75%) of median for the County or the City, whichever is less, consistent with the relationship between unit size and household size set forth in Section 9.1.12.

Sec. 9.1.17 Review of Proposal for Phasing

Proposals for projects to be constructed in phases shall be reviewed as a component of the initial project review and shall be included in any conditions of approval. A schedule setting forth the phasing of the total number of units in a covered project, along with a schedule setting forth the phasing of the required inclusionary unit(s), shall be presented for review and approval as part of the permitting process, for any development subject to the provisions of this article. If phasing is not included as part of the review process, no phasing of the inclusionary units shall be allowed.

If a covered project is approved to be constructed in phases, the requirements of the following section shall be applicable to each such phase.

Sec. 9.1.18 Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy

Inclusionary units shall be made available for occupancy on approximately the same schedule as a covered project's market units, except that certificates of occupancy for the last ten percent (10%) of the market units shall be withheld until certificates of occupancy have been issued for all of the inclusionary units; except that with respect to covered projects to be constructed in phases, certificates of occupancy may be issued on a phased basis consistent with the conditions of approval set forth in Sec. 9.1.17.

Sec. 9.1.19 Enforcement

Violations of this article shall be punishable as provided by Article 2 of this Ordinance.

Sec. 9.1.20 Administration

The Housing Trust Fund and its Manager shall monitor activity under this article and shall provide a report no less than every year to the city council, setting forth its findings, conclusions, and recommendations for changes that will render the program more effective. The report described above shall be presented to the city council at a legally warned public hearing.

PART 2: HOUSING PRESERVATION AND REPLACEMENT/DEMOLITION AND CONVERSION

Sec. 9.2.1 Intent

The intent of these regulations is:

(a) To prevent the demolition and conversion to a nonresidential use of residential structures, many of which contain the city's most affordable housing, and to maintain housing that meets the needs of all economic groups within the city;

(b) To meet the specific mandates of 24 V.S.A. Section 4302 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(c) To support the retention of housing units in the city;

(d) To preserve the residential character of neighborhoods in which the expansion of commercial, professional or educational activities is likely to eliminate existing housing units;

(e) To offset the loss of housing by requiring replacement of housing units with new construction, conversion, or creation of assisted housing; and

(f) To mitigate the impact on tenants displaced or threatened with displacement by demolition or conversion to a nonresidential use.

Sec. 9.2.2 Applicability

Except as otherwise provided for in Section 9.2.10, this Part is applicable to the loss, demolition, or conversion to a nonresidential use of any housing unit in the City, including those demolished or declared unfit for habitation pursuant to any order, decision or other action of the city's office of inspection services.

The conversion to a nonresidential use of any housing unit located on the ground floor of a building within a mixed-use zoning district shall be exempt from the provisions of this Part.

Sec. 9.2.3 Approval

Notwithstanding any other provision of this ordinance, a person who proposes to remove, demolish, or to convert to a nonresidential use, any housing unit or units, in a zone where such a use is otherwise permitted, must obtain approval pursuant to all applicable provisions of this Ordinance.

In addition to the permit application requirements contained in Article 3, the applicant must also submit:

(a) A statement certifying the number of housing units to be demolished or converted to a nonresidential use and the number of bedrooms existing within each of these units; and

(b) A list containing the name of each tenant currently residing in the housing units to be demolished or converted, as well as verification by affidavit of compliance with the tenant notice requirements of this section.

Sec. 9.2.4 Relocation Requirements; Notice and Relocation Costs

Prior to demolition or conversion, the owner shall:

(a) Deliver to every tenant who occupies a housing unit slated for demolition or conversion, written notice to vacate the unit due to the owner's intent to demolish or convert the unit to nonresidential use. The notice to tenants shall consist of the written notice that an owner is required to send by certified mail and by regular mail or hand delivery to the current tenants of any housing unit that is slated for demolition or conversion to a non-residential unit, announcing the owner's intent to demolish or convert the unit to non-residential use, required under the Federal Uniform Relocation Act. As previously noted, this notice to tenants shall be sent certified mail, return receipt requested, and by either regular mail or hand delivery, and shall provide the tenant not less than one hundred eighty (180) days to vacate the rental unit. Evidence of receipt of notice to each affected tenant shall be required prior to approval by the development review board; and

(b) Be responsible for paying the costs of relocation for any tenant(s) displaced from any housing unit demolished or converted to a nonresidential use. The costs that are included and the manner in which these costs are paid shall be identical to the relocation services that are required for displaced persons under Section 18-2 of the Burlington Code of Ordinances.

Sec. 9.2.5 Housing Replacement Requirement

Notwithstanding the housing replacement in-and-of-itself does not require Development Review Board review and approval, an owner shall replace any housing units that are demolished or converted to a nonresidential use in accordance with and subject to all other applicable requirements of the Comprehensive Development Ordinance.

Replacement units may be provided by the owner or by the owner's designee fully in any of the following ways:

a. New Construction. Construction of housing units within a new structure or new addition;

b. Residential Conversion. Conversion of all or a portion of a nonresidential building to residential use; or,

c. Subsidy. Creation of affordable housing units that have not been affordable to low-income households for the twenty-four (24) months preceding the date of application for conditional use approval.

An applicant may use any of the three methods to partially fulfill their replacement requirements, until the total requirement is met.

Sec. 9.2.6 Replacement Unit Requirements

In addition to the foregoing, all replacement units must meet the following requirements:

(a) Each unit shall have at least the same number of bedrooms as the unit being replaced;

(b) These units must be provided within the City of Burlington;

(c) These units must be ready for occupancy within eighteen (18) months of the date on which the conditional use approval is granted;

(d) These units must remain assisted housing, as either rental housing or limited equity housing, for a period of not less than ten (10) years from the date of first occupancy;

(e) These units must be sold or leased to prospective occupants who qualify as low-income households at the time they first lease or purchase the unit; and

(f) These units shall contain at least the same number of accessible units being replaced, or the number of accessible units that may otherwise be required by statute or regulation, or one accessible unit, whichever is greater.

Sec. 9.2.7 Performance Bond

Owners must post a performance bond, letter of credit, or other security acceptable to the city attorney in an amount equivalent to the estimated cost of producing the replacement unit(s) required by this section, as determined by the administrative officer. Should the owner fail to provide the replacement unit(s) required within the time period specified in Section 9.2.6(c), the performance bond, letter of credit or other security shall be forfeited and the proceeds placed in the city's Housing Trust Fund.

Sec. 9.2.8 Adjustment for Increased Units

A downward adjustment of fifty percent (50%) in the number of years that replacement units must remain assisted housing may be approved by the Zoning Administrative Officer where the owner creates on site, through new construction or by the conversion of a nonresidential building to residential use, at least twice the number of housing units as the number being lost through units required by this Article.

Sec. 9.2.9 Relief

Any owner who has applied for approval for demolition or conversion of a housing unit or units may apply to the DRB for relief from the housing replacement requirements of Section 9.2.5. Such relief may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

(a) The literal interpretation and strict application of the housing replacement requirement would be impossible for the owner;

(b) The requested relief would be consistent with the spirit and purpose of this Article; and

(c) The requested relief does not constitute a grant of special privilege inconsistent with the limitations upon similar properties.

The DRB must make positive findings on each of the three (3) criteria above in order for any such adjustment to be valid.

Sec. 9.2.10 Exemptions

This article shall not be applicable to:

(a) A loss or change of use lasting less than one (1) year, where residential use is restored within that same one (1) year period, shall not be subject to the replacement requirements of this Part.

(b) Any housing unit ordered demolished or declared unfit for habitation by the office of inspection services because of damage caused by civil commotion, malicious mischief, vandalism, natural disaster or other causes beyond the owner's control shall not be subject to these regulations. Any housing unit ordered demolished, or declared unfit for human habitation, by the office of inspection services because of deterioration caused by neglect or deferred maintenance by the existing or prior owner(s) shall not be exempt. A determination of neglect or deferred maintenance shall be made by the administrative officer based on evidence of one or more of the following:

1. The deterioration of exterior walls or other vertical support;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of external chimneys;
4. The deterioration or crumbling of exterior mortar;
5. The ineffective waterproofing of exterior walls, roofs and/or foundations; and/or
6. The existence of broken windows or doors.

In the event that any unit is demolished prior to obtaining conditional use approval, enforcement action in accordance with Article 2 shall commence immediately and the requirements of this Article shall apply in addition to any enforcement penalties.

(c) The demolition or conversion to a nonresidential use of a single attached or detached housing unit or duplex that is occupied by the owner as his or her primary residence for the twelve-(12) month period preceding the date of application for conditional use approval. Nor shall this section be applicable in its replacement requirement to that portion of a multi-unit building of three (3) units

or more that is occupied by the owner as his or her primary residence for the thirty-six-(36) month period preceding the date of application for conditional use approval. Any exemption allowed under this provision shall be void if the owner sells any of the applicable units within twenty-four (24) months of the date of conditional use approval; and,

(d) The demolition or conversion of a housing unit that has rented, for the twenty-four (24) months preceding the date of application for conditional use approval, for a monthly charge in excess of twice the HUD Fair Market Rent for the Burlington MSA, adjusted for unit size.

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ARTICLE 10: SUBDIVISION REVIEW

Introduction: This Article of the Burlington Comprehensive Development Ordinance addresses the relocation of property boundaries, the creation of new lots, and the recording of plats in the City Land Records. The application and review process contained in this Article provides an overall framework for the consideration of such development proposals and all of their component parts. Often, but not always, land development that creates new lots also includes the placement of buildings and other site improvements. The specific regulation and review of such buildings and site improvements are can be found elsewhere in this ordinance.

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Sec. 10.1.1 Purpose

The city hereby adopts regulations governing the subdivision of lands to encourage the appropriate development of all lands in a manner which will promote the public health, safety, prosperity, comfort, convenience, efficiency, economy and general welfare; and to provide means and methods for the prevention, minimization and future elimination of land development problems which may presently exist or which may be foreseen.

In addition, this Article shall further the following specific aims:

(a) To create an optimum urban environment by encouraging a rational pattern of development and the conservation of important natural areas, views and open space through implementation of the comprehensive master plan and insuring compliance with the applicable zoning bylaws;

(b) To protect the public health and safety by the reduction of noise, air, and water pollution, protects access to adequate light and air, providing adequate access by emergency services and the creation of opportunities for daily physical activity;

(c) To provide adequate access to public ways that will be safe and convenient for pedestrian, bicycle, and vehicular traffic;

(d) To secure adequate and compatible provision for water, wastewater, stormwater and other utility services; street lighting, fire and police protection, recreational and educational facilities and similar municipal services; and any other requirements where necessary in a subdivision; and,

(e) To provide an overall framework for the creation of new lots and the recording of plats and associated components in the city's land records

Sec. 10.1.2 Nonretroactive Effect

The provisions of this Article shall not apply to any existing subdivision which has heretofore been approved by the city and the plat thereof recorded pursuant to the provisions of the subdivision regulations of the City of Burlington adopted April 1954, and as amended from time to time thereafter. In the event any such subdivision of said property shall be subject to the provisions hereof, no such prior approved subdivision shall be modified, changed or altered except by approval of the DRB in accordance with the provisions of this Article.

Sec. 10.1.3 Platting Jurisdiction

(a) Platting Authority:

The DRB shall be the official city platting authority responsible for the review and acceptance of all land subdivision plats. No plat of a land subdivision shall be entitled to be recorded in the city land records without the approval of the DRB or its designee inscribed thereon.

(b) Use of plat:

The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a plat of a subdivision that does not have final approval by the DRB or its designee inscribed thereon and is not recorded in the city land records shall be prohibited.

(c) Erection of buildings:

No zoning or building permit shall be issued and no building shall be erected on any lot within a proposed subdivision unless and until the final subdivision plat has been approved by the DRB and properly recorded in the city's land records.

Sec. 10.1.4 Administrative Conference

Applicants are encouraged to discuss their proposals with the administrative officer or designee prior to the submission of an application in order to provide the applicant with constructive suggestions, and to generally determine the information and review process that will be required for the issuance of a permit.

Sec. 10.1.5 Lot Line Adjustments

The intent of this section is to provide for an abbreviated review and approval process for the realignment of lot boundary lines between existing adjacent lots, including the merger of lots, where no additional lots are being created. In addition, a lot line adjustment shall include the addition and subtraction of vestigial alleys, as defined in Article 13, when being combined with an adjacent lot. A lot line adjustment shall not constitute a subdivision.

(a) Lot Line Adjustment Submission Requirements:

An applicant requesting review of a lot line adjustment shall submit the following documentation to the administrative officer:

(1) A complete application form pursuant to the provisions of Art. 3 and signed by the property owner;

(2) A letter requesting review and approval of a lot line adjustment, giving the names and address of property owners;

(3) The applicable application fee; and,

(4) Two (2) copies of a lot line adjustment plat which shall include the following:

The plat shall be prepared by a Vermont licensed land surveyor and indicate all lots that are proposed to be modified as a result of the proposed lot line adjustment. The survey shall be sufficient to clearly indicate the area, metes, bounds, and ties of each of the affected lots.

The survey shall include all structures and site improvements and delineate all building/structure setbacks, lot coverage, parking spaces and any other details as may be specified by the Administrative Officer..

The following additional language shall be printed on the plat:

"*Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by:*"

_____

City of Burlington Administrative Officer/ Assistant Administrative Officer

Date: _____Zoning Permit #_____

(b) Completeness of Submission:

Upon receipt of a complete application, the administrative officer shall have no more than thirty (30) days to render a decision on the lot line adjustment application pursuant to the provisions of Sec. 3.2.5.

(c) Lot Line Adjustment – Administrative Decision:

The administrative officer shall have the authority to approve or deny an application for a Lot Line Adjustment as follows:

1. An application may be denied for good cause based upon substantial evidence including but not limited to:
   A. Such cases where the proposed adjustment will result in a new lot being created;
   B. Such cases where the proposed adjustment will result in the creation of a non-conforming parcel or non-conforming buildings or structures or yard areas or any non-conforming dimensional standard; and,
   C. Such cases where the proposed adjustment does not adequately address the applicable Land Division Design Standards of Art. 6.
2. Provided the adjustment does not create a non-conforming parcel, structure or nonconforming yard area or other dimensional non-conformity, or upon the issuance of a variance by the DRB, and upon submission of a plat per subsection (b) above, the administrative officer shall approve the proposal as presented or as modified.

All appeals of an administrative officer's decision shall be made pursuant to the applicable provisions of Article 12.

Sec. 10.1.6 Sketch Plan Review

Whenever a subdivision is proposed that will create five (5) or more lots or dwelling units, the applicant shall submit sketch plans and data pursuant to Article 3, Section 3.2.1(c) Sketch Plan Review showing existing conditions within the site and its vicinity and the proposed layout and development of the subdivision prior to the preparation of any preliminary and/or final plats.

All other applications are encouraged but not required to submit sketch plans for review prior to submitting an application.

Sec. 10.1.7 Combined Preliminary and Final Plat

For subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11, the applicant may request, and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.

In such cases, the submission requirements for final subdivision plats pursuant to Sec. 10.1.9 shall be met at the time of application, and decisions by the DRB shall be based on the project's conformance with the review criteria for both preliminary (Sec. 10.1.8(d)) and final plats (Sec. 10.1.9(d)).

Sec. 10.1.8 Preliminary Plat Review

After sketch plan review if applicable, the applicant may submit an application for Preliminary Plat Review pursuant to requirements specified below and containing any

additional information requested by the administrative officer after completion of the sketch plan review.

(a) Preliminary Plat Submission Requirements

An applicant requesting preliminary plat review shall submit the following to the administrative officer:

1. A complete application form pursuant to the provisions of Art. 3 and signed by the property owner;
2. A letter requesting review and approval of a preliminary plat, giving the names and address of those to whom notice of the public hearing by the DRB on preliminary plat shall be sent;
3. The applicable application fee;
4. A narrative describing the proposed project's conformance with each of the applicable review criteria in (d) below;
5. Eight (8) copies of a preliminary plat meeting the following specifications:
   - A. Sheet size and scale: The preliminary plat shall be twenty-four (24) inches by thirty-six (36) inches outside dimension. The plat shall be clearly and legibly drawn to a scale of no larger than one-inch equals forty (40) feet. Larger sheet sizes will be allowed with approval of the administrative officer. A reduced, 11" X 17" copy as well as digital version in a format acceptable to the administrative officer shall also be submitted.
   - B. The preliminary plat must show all of the following as applicable:
     - i) Subdivision name or title, address, scales, north arrow indicating magnetic and true north, date, and legend;
     - ii) Names and addresses of the applicant, designer, and other parties to the subdivision;
     - iii) Vicinity map, drawn at a scale of one inch equals six hundred (600) feet, showing boundary lines of adjoining developed and undeveloped land within an area bounded by nearest arterial streets or other natural boundaries; identifying type of use and ownership of surrounding land and showing alignments of existing streets;
     - iv) Total acreage of subdivision and number of lots proposed;
     - v) Exact boundary lines of the tract by bearings and distances with such measurements tied into an existing reference point and the boundaries of contiguous properties;
     - vi) Location, widths, and names of all existing or previously platted streets, or other rights-of-way, parks, and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract; and,

vii) Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract; also indicate such data as grade invert elevations, and locations of catch basins, manholes, and hydrants;

6. Eight (8) copies of a preliminary site plan meeting the following specifications:

   A. Site plan, drawn to a scale of 1" =, 10, 20, 40 or 60 ft., of the subject property. A reduced, 11" X 17" copy as well as digital version in a format acceptable to the administrative officer shall also be submitted;

   B. The preliminary site plan must show all of the following as applicable:

      i. Physical features such as water courses with respective buffers, wetlands with respective buffers, rock outcrops, wooded areas, slopes in excess of 15%, significant trees with a diameter at breast height of 6" or greater, and other significant natural or cultural features, and soil boring data at locations and depths as may be reasonably required by the administrative officer or city engineer to carry out the purposes and intent of this chapter.

      ii. Preliminary erosion and sedimentation control plan including temporary and permanent measures to meet the most current city, state and federal water quality standards.

      iii. Existing and proposed contours at vertical intervals of not more than five (5) feet with elevations indicated in feet above mean sea level except where the city engineer may require further delineation of the topography.

      iv. Proposed layout including streets and alleys with proposed street names, lot lines with approximate dimensions, approximate location of proposed structures including public facilities and land to be reserved or dedicated for public uses. Where only a portion of a larger parcel is being subdivided, the development review board may require a complete site plan of the entire parcel so as to examine the partial development to be sure it does not adversely affect the arrangement and continuity of the overall design. The site plan of the entire parcel shall indicate the types of land uses, densities, and vehicular accessibility.

      v. Remaining and protected open space, systems of drainage, and provisions for disposal of sewerage and water supply within the subdivision.

      vi. Building types, approximate size, footprint location, if applicable.

      vii. Proposed street tree planting including proposed species, size, and spacing.

      viii. Zoning district and overlay district boundaries of all areas shown on the site plan.

(b) Completeness of Submission, Administrator's Action

Upon receipt of a complete application, including all supporting documents and payment of all applicable fees, the administrative officer shall have no more than thirty (30) days to refer the application to the DRB pursuant to the provisions of 24 VSA Sec 4448 and Art. 3, Sec. 3.2.5. In addition, the administrative officer shall date each copy and immediately distribute one copy to each of the following:

1. the city engineer/director of the department of public works;
2. the director of the department of parks and recreation;
3. the director of the Burlington electric department;
4. the chair or designated individual of the DRB; and,
5. the fire marshal.

The administrative officer shall retain the other two (2) copies. The administrative officer shall also notify the school board and the city councilors serving the affected ward(s) of the pending development; its size, location, and general character.

(c) Public hearing on preliminary plat:

Applications for preliminary plat review shall require a public hearing by the DRB pursuant to the provisions of Article 2. Should the proposed subdivision be located within five hundred (500) feet of a municipal boundary, a copy of the public notice shall also be sent to the regional planning commission and to the clerk of the planning commission of the affected municipality.

The notice shall describe the location of the proposed subdivision, the name of the applicant and the time and place of the hearing. It shall specifically state the hearing is on the applicant's proposed preliminary plat. A copy of said notice shall be sent by first class mail to the applicant and to all owners of land abutting the proposed subdivision.

Once convened, the DRB may recess the public hearing to be reconvened at a later date, time, and place announced during said hearing without having to re-advertise and repost notice of such recessed hearing. The DRB shall make a record of all comments presented at the public hearing.

Pursuant to a schedule issued by the DRB prior to the close of the public hearing, affected city departments shall provide a written report to the DRB, administrative officer, and the applicant of all objections and comments regarding the proposed subdivision. Representatives of state and private agencies may likewise be requested to provide written comments. The applicant shall then provide written responses to all such reports to the DRB and administrative officer.

(d) Review Criteria:

The review of a preliminary plat by the DRB shall address all issues pertaining to conformance with city plans; the capacity of municipal infrastructure; and overall site development and configuration including but not limited to the preservation of open spaces and natural resources, the layout of blocks and lots; streets, sidewalks pathways,

and other access ways; stormwater management systems, water, sanitary sewage and other utility systems; and buffering of uses.

In its review of a Preliminary Plat, the DRB shall include consideration of the input of the Conservation Board, Design Advisory Board and city departments where offered. Such comments shall be considered by the DRB throughout the review process.

Decisions by the DRB on a preliminary plat shall be based on the project's conformance with the following:

1. the requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in Article 4;
2. the review criteria for Conditional Uses and Major Impact in Article 3, Part 5 where applicable;
3. the requirements of Article 5 with regard to Special Uses and Performance Standards as applicable; and,
4. the land division and site development principles and design standards in Article 6.

(e) Decision of the DRB on the preliminary plat:

Pursuant to Sec. 3.2.8, within forty-five (45) days from the close of the public hearing on the preliminary plat the DRB shall issue Findings of Fact regarding the proposed application's conformance with each of the review standards of (d) above. The DRB's decision may be to approve, approve with modifications, or disapprove the preliminary plat. Failure of the DRB to issue a decision within this period shall be deemed approval and shall be effective on the 46th day. Notation of the action taken by the DRB shall be made on two (2) copies of the preliminary plat - one copy to be returned to the applicant and one copy retained for the records of the DRB.

Approval of the preliminary plat shall not constitute a final decision of the DRB on the proposed project or in any manner whatsoever constitute an approval of a final plat unless as specifically provided under Sec. 10.1.7 above. Such a decision shall indicate only conceptual approval of the proposed layout and serve as a guide to the preparation of the final plat.

Disapproval of the preliminary plat shall constitute a final decision of the DRB on the proposed project and be subject to the provisions for appeal pursuant to Art. 12, or consideration of a revised preliminary plat as provided under (f) below. In the case of disapproval, the DRB shall include in the Findings of Fact the specific reasons for denial which shall accompany the returned copy of the preliminary plat.

(f) Consideration of a Revised Preliminary Plat.

In the case of disapproval, the applicant may submit a substantially revised preliminary plat within six (6) months of the decision and upon payment of fifty (50) per cent of the original application fee. No time extensions of the six month period shall be granted.

Such a revised preliminary plat shall substantively address the reasons for denial as outlined by the DRB, but shall not constitute an entirely new development proposal as determined by the administrative officer. Consideration of a revised preliminary plat shall

follow the same process and address the same review criteria as the original preliminary plat pursuant to the requirements of this Article.

In the case of disapproval of a revised preliminary plat, no additional reconsideration shall be permitted, and the decision of the DRB shall constitute a final decision on the proposed project which may be appealed pursuant to the provisions of Article 12.

(g) Time Limits for a Preliminary Plat:

A preliminary plat approved or conditionally approved by the DRB shall be valid for a period of one (1) year after the date of decision after which the approval shall be void and the applicant shall be required to submit a new subdivision application for approval. The period of validity may be extended for an additional one (1) year only if a written request for such an extension has been received and granted by the DRB prior to the expiration of the preliminary plat. No additional renewals shall be granted.

Sec. 10.1.9 Final Plat Approval Process

During such time that an approved preliminary plat remains effective, the applicant may submit an application for approval of a final plat.

(a) Final Plat and Construction Detail Submission Requirements

The applicant may seek approval of a final plat by filing the following items with the administrative officer. All plat maps, including street and utility construction plans, shall also be provided in a digital computer format compatible with the city mapping and CAD systems as determined by the administrative officer.

1. A letter requesting review and approval of the final plat and giving the name and addresses of person(s) to whom notice of the hearing by the DRB thereon shall be sent.
2. A narrative describing the proposed project's conformance with each of the applicable review criteria in (d) below, and a timetable or phasing plan for the construction of all site improvements.
3. Ten (10) copies of the final plat, as specified in subsection (6) below.
4. Ten (10) copies of the final site plan, as specified in subsection (7) below.
5. Ten (10) copies of construction detail drawings of the sewer, water and drainage systems, other underground utilities, surface improvements, street profiles and street cross-sections as specified in subsection (8) below.
6. Final plat specifications: The final plat shall be prepared by a Vermont licensed land surveyor. The plan shall be at a scale of one inch equals forty feet (1"=40'). In addition such other scale as the board may require to showing details clearly and adequately shall be included. Sheet sizes shall be twenty-four (24) inches by thirty-six (36) inches with one-inch margins on three (3) sides and two (2) inch margin on the side to be bound. If multiple sheets are used, they shall be accompanied by an index sheet referencing the entire final plat. The final plat shall contain all

information required for the preliminary plat pursuant to Sec. 10.1.8 (a)4 above, updated and accurate, together with the following information:

A. Existing and proposed lines of streets, ways, lots with areas of each, dimensions and areas of easements, parks and other property within the subdivision to be dedicated for public use.

B. Location, width, name, and final grade of proposed streets.

C. Sufficient data including the length, radii, and central angles of all curves to readily determine the location, bearing, and length of every street and right-of-way, lot line and boundary line and to reproduce same on ground; all bearings to be referred to magnetic meridian. Wherever a boundary line of the subdivision is within five hundred (500) feet of a Vermont Coordinate Survey monument, the survey of the subdivision shall be tied to said monument(s). The error of closure must not exceed one to fifteen thousand (15,000); traverse streets or a copy thereof showing error of closure of the field surveys and the calculations for final adjustment must be submitted to the office of the city engineer for approval.

D. Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest municipal, county or state monument on an accepted way and monuments at all points of curvature and changes in direction of street right-of-way lines or where designated by the city engineer.

E. Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision and street lines of the access street leading from the subdivision to the nearest accepted public street.

F. Lot numbers, proposed house numbers and areas of other adjoining land of applicant not included in subdivision.

7. Final Site Plan detail drawings: All submitted applications for final plat approval must likewise include a final site plan consisting of the following as applicable:

   A. All information required for the preliminary site plan pursuant to Sec. 10.1.8 (a)5 above, updated and accurate;

   B. Minimum front, side, and rear setback lines shall be shown and dimensioned in accordance with the applicable zoning ordinance requirements of Article 4; and,

   C. Subsurface conditions of the tract, location, and results of tests made to ascertain subsurface soil rock and ground water conditions and depth to ground water, as may be reasonably required to carry out the purposes and intent of these regulations.

8. Construction detail drawings: All submitted applications for final plat approval must likewise have construction detail drawings consisting of the following as applicable:

   A. Plans and profiles showing existing and proposed elevations along centerlines of all streets within the subdivision.

B. Plans and profiles showing location of street pavements, curbs, gutters, sidewalks, manholes, catch basins, culverts and existing intersecting walks and driveways.

C. Typical cross-sections of improved streets indicating the material used for construction of the roadbed and surface sidewalk, curbing and tree belt, tree pit showing centerline right-of-way width, width of pavement and travel lanes, height of crown, curb reveal, and any other pertinent information.

D. Plans and profiles of the storm drainage system showing the location, pipe size and invert elevations of existing and proposed storm drains together with invert and rim elevations of all catch basins and manholes. Surface elevations and approximate depth of water shall be shown at each point where drainage pipe ends at a waterway. Drainage calculations prepared by the applicant's engineer, including design criteria used, drainage area and other information shall be sufficient for the city engineer to determine the size of any proposed drain, culvert, or bridge.

E. Plans and profiles of the sanitary sewer system showing the location, pipe size and invert elevations of existing and proposed sewage system together with invert and rim elevations of all manholes. All lots within the proposed subdivision shall be serviced by the municipal sewerage system. Where a gravity flow of sewage cannot be attained, the applicant shall install a pumping or lift station of a make and type specified by the sewage disposal superintendent to provide for the proper disposal of all waste into the existing sanitary systems. The applicant shall covenant that one year after the pumping station has been installed and found to function to the satisfaction of the city engineer said pumping station shall be deeded to the city and thereafter shall be maintained and operated by the waste water division of the public works department.

F. Plans and profiles of the water supply system showing the location, pipe size and invert elevations of the subdivision water system. All lots within the proposed subdivision shall be supplied by the municipal water system.

G. All profiles shall be drawn with:

   i. A horizontal scale of one inch to forty (40) feet and a vertical scale of one inch to four (4) feet.

   ii. Existing centerline in fine black line with elevation shown every fifty-(50) feet.

   iii. Proposed centerline grades in heavier black line with elevations shown every fifty (50) foot station except that in vertical curves elevations shall be shown at twenty-five (25) foot station. All changes in street grade shall be shown by a tangent to the vertical curve with the grade of the tangent indicated at the point of tangency.

   iv. Cross-sections at every fifty (50) foot station or any unusual section, as is common practice in the design of roadways by the Vermont Agency of Transportation.

v. Existing right-of-way line in fine black dash line.

vi. Proposed right-of-way line in fine black dash line.

vii. All elevations based on the U.S. Coast and Geodetic Survey benchmarks.

viii. Requirements (i), (ii), (iii) and (iv) of such construction detail drawings must be approved by the city engineer prior to approval of the final plat by the DRB.

(b) Completeness of Submission, Administrator's Action

Upon receipt of a complete application for review of a final plat, the administrative officer shall have no more than thirty (30) days to refer the application to the DRB pursuant to the provisions of 24 VSA 4448 and Art. 3, Sec. 3.2.5. In addition, the administrative officer shall date each copy of such drawings and distribute a copy to the city engineer and the director of each affected city department. Two (2) copies shall be reserved for use by private utilities and two (2) copies shall be retained by the administrative officer.

(c) Public hearing on final plat:

Applications for final plat review shall require a public hearing by the DRB pursuant to the provisions of Article 2. Should the proposed subdivision be located within five hundred (500) feet of a municipal boundary, a copy of the public notice shall also be sent to the regional planning commission and to the clerk of the planning commission of the affected municipality.

The notice shall describe the location of the proposed subdivision, the name of the applicant and the time and place of the hearing. It shall specifically state the hearing is on the applicant's proposed final plat. A copy of said notice shall be sent by first class mail to the applicant and to all owners of land abutting the proposed subdivision.

The administrative officer shall check the final plat for conformance with this article and report his or her findings and recommendations together with the findings and recommendations of the other city officials whose departments are affected by the proposed subdivision to the DRB. The DRB shall include consideration of the input of the conservation board, design advisory board and city departments where offered. The DRB shall make a record of all comments presented at the public hearing. Such comments shall be considered by the DRB throughout the review process.

Once convened, the DRB may recess the public hearing to be reconvened at a later date, time, and place announced during said hearing without having to re-advertise and repost notice of such recessed hearing.

(d) Review Criteria:

The review of an application for final plat shall also take into consideration modifications to the preliminary plat as required by the DRB, and address all infrastructure designs and detailed site development including the stormwater management systems, erosion control, water and sanitary sewage, utility systems; architectural designs, and streets and sidewalks.

Decisions by the DRB on a final plat shall be based on the project's conformance with the following:

1. the requirements of the underlying zoning district(s) and all applicable overlay district(s) as set forth in Article 4;
2. the review criteria for Conditional Uses and Major Impact in Article 3, Part 5 where applicable;
3. the requirements of Article 5 with regard to Special Uses and Performance Standards as applicable; and,
4. all development principles and design standards in Article 6.

(e) DRB approval of final plat:

Pursuant to Art. 3, Sec. 3.2.8, within forty-five (45) days from the close of the public hearing on the final plat the DRB shall issue Findings of Fact regarding the proposed application's conformance with each of the review standards of (d) above, and may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the city's municipal development plan. The decision of the DRB may be to approve, approve with modifications (conditions), or disapprove the final plat. Failure of the DRB to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

If the final plat is approved or disapproved, grounds for such action shall be stated as Reasons for approval or denial in the Findings of Fact and included in a letter advising the applicant of the approval/disapproval of the plat. In the case of denial of the final plat, a minimum of six (6) months must elapse, commencing from the date of denial, before the applicant may submit a new subdivision application for the same property. Any such future application shall be substantially different from the denied application as determined by the administrative officer.

Sec. 10.1.10 Performance Bond and Guarantee of Completion

(a) Bonds and Securities:

Prior to the release of any zoning permits for construction associated with an approved final plat, the applicant shall file with the administrative officer, and with the city clerk for recording, a covenant acceptable to the city attorney, running with the land, committing such applicant to complete all required improvements within a maximum period of three (3) years from the date of final plat approval. A longer phasing period for such improvements may be permitted as a condition of approval of the final plat by the DRB.

Either a performance bond, irrevocable letter of credit or a deposit of money or negotiable securities pursuant to 24 VSA Sec. 4416-4417 and Sec. 10.1.10 shall secure such covenant. The amount of such bond, letter of credit, money, or negotiable securities (security deposit) shall be based upon the estimated cost of such improvements verified by the city engineer or appropriate department head, plus a ten percent (10%) contingency factor and the estimated maintenance cost for such improvements for a

period of two (2) years following their completion. If a performance bond is filed, the penal sum of such bond shall be one hundred percent (100%) of the above-determined amount. The bond or any other form of surety or security shall be approved as to legal sufficiency, form, and manner of execution by the city attorney and as to credit worthiness by the city's chief administrative officer. If money or negotiable securities are filed, the necessary sum shall be one hundred percent (100%) of such above determined amount.

(b) Security Reduction:

As an applicant completes any one or more of the required improvements, and such completion is certified by the DRB or its designee after inspection by appropriate city departments, the DRB may permit a corresponding reduction in the amount of security held under subparagraph (a) hereof. The applicant shall inform the administrative officer at least forty-eight (48) hours prior to completion of any improvement so that arrangements for proper inspection thereof can be made. No part of any improvement shall be covered over until such inspection is made and completion of such improvement is certified. In no event, however, shall such security be reduced below the amount required to cover the ten percent (10%) contingency factor and the estimated two-year maintenance cost.

(c) Certification of Occupancy:

The DRB or its designee shall issue a final certificate of occupancy for the subdivision and all required improvements when it is satisfied, after appropriate inspections, that all improvements required by it under authority of this Article have been completed by the applicant, and the "as-built" drawings" required by Sec. 10.1.14 have been filed. Additional certificates of occupancy will be necessary for any associated buildings constructed within the subdivision.

Upon the issuance of a final certificate of occupancy, all security deposits required shall be released except the amount required for the issuance thereof, all security deposits required shall be released except the amount required for the ten percent (10%) contingency factor and the estimated two-year maintenance cost. Such remaining amount shall be released two (2) years from the date such final certificate of occupancy is issued, unless all or any portion thereof has been previously forfeited or is required for necessary maintenance work which arises prior to the expiration of such period.

(d) Forfeiture:

In the event any required improvements are not completed within the maximum period allowed, or are not maintained as required, such security deposit may be declared forfeit by the DRB or its designee, and the proceeds thereof utilized by the city to complete such improvements, maintenance, or "as-built drawings."

Sec. 10.1.11 Recording of Final Plats

(a) Certifications and Endorsement:

Every approved final plat seeking recording in the city land records shall carry the following executed certifications:

1. City Engineer's certification as follows:

   "It is hereby certified that this plat fully complies with all engineering requirements set forth in the subdivision regulations of the City of Burlington and all other engineering requirements of Burlington, Vermont."

   By:_____

   Registered_____

   Seal

2. Surveyor's certification as follows:

   "It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown hereon actually exist or are marked as "future" and their location, size, type and materials are correctly shown.

   By:

   _____

   Registered_____

   Seal

3. Applicant's certification as follows:

   State of Vermont, County of Chittenden, City of Burlington

   "The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that this plat was made from an actual survey."

   Agent/Owner:_____

   Date:_____

4. Certificate of dedication: A certification by the applicant setting forth the description of the areas and improvements being dedicated to the public and the extent of the title which is being dedicated.

5. Text of protective covenants whereby the applicant proposes to regulate land use in the subdivision and otherwise protect the proposed development.

6. Certificate of the City Engineer, as follows:

   "I, _____, city engineer, do hereby certify that the subject plat has been examined by me and found to comply with the engineering requirements set forth in the regulations governing plats of subdivided land adopted by the city council, with the following exceptions:"

   _____

   City Engineer

7. Certificate of the Superintendent of City Parks as follows:

   "I,_____,
   superintendent of parks do hereby certify that the subject plat has been examined by me and found to comply with the street planting requirements and park area requirements set forth in the regulations governing plats of subdivided land adopted by the city council with the following exceptions:"

   _____

   City Superintendent of Parks

8. Certificate of the City Fire Marshal as follows:

   "I,_____, fire marshal do hereby certify that the subject plat has been examined by me and found to comply with the fire prevention requirements set forth in this chapter governing plats of subdivided land adopted by the city council with the following exceptions:"

   _____

   City Fire Marshall

9. Any other certificate as may be reasonably required by the DRB to carry out the purpose and intent of these regulations.

Every approved final plat seeking recording in the city land records shall carry the following endorsement stating that the plat has been approved by resolution of the development review board, and specifying the date of such approval, including the Findings of Fact and any conditions of approval, and signed and dated by the chair of the development review board.

"Approved by Resolution of the City of Burlington Development Review Board, Burlington Vermont, on this _____day of _____ 20__ Subject to All Requirements and Conditions of The Comprehensive Development Ordinance of the City of Burlington, Vermont."

Signed This _____ day of _____, 20__

By_____

Witness _____DRB Chair_____

Zoning Permit/Certificate of Appropriateness #_____

Endorsement shall not take place until all required plats, construction drawings, and supporting documents have been submitted to the administrative officer and determined to be complete and accurate. Prior to the endorsement of the final plat, the city engineer and the administrative officer shall check all documents to be filed to ascertain that they are as approved.

Where necessary, a certification by the city clerk of the development review board's failure to act within forty-five (45) days of the close of the final public hearing held under these regulations shall serve as the required endorsement.

(b) Recording within 180-days

The final plat, endorsement by the DRB and all associated documents, shall be recorded in the office of the chief administrative officer within 180 days of the DRB's approval of the final plat. Failure to file all such materials within 180 days of the decision shall render the final plat approval void. In the case of an appeal of the DRB's approval of the final plat, or where additional state or federal permits may be required, the filing deadline shall be within 180 days of the final action or adjudication.

Upon written request, the administrative officer may extend the date for filing the plat by an additional 90 days.

The plat to be filed with the chief administrative officer shall comply with the requirements of 27 V.S.A. Chapter 17 and Section 10.1.9 (a)6 of this Article, and shall be drawn in black permanent inks on three (3) to five (5) mil stable-base polyester film (mylar). After such filing or recording, the plat shall be part of the City of Burlington Official Map.

In addition to the final plat as recorded in the city land records:

1. One copy of the approved plat shall be filed with the building inspector before building permits for structures within the subdivision are made available;
2. One copy of the approved plat shall be filed with the city assessor; and,
3. A digital version of the approved plat shall be filed with the department of planning & zoning in a format acceptable to the administrative officer.

(c) Plat Void if Revised After Approval:

No changes, erasures, modifications, or revisions shall be made on any subdivision plat after approval has been given by the DRB and endorsed in writing on the plat, unless said plat is first resubmitted to the DRB and the DRB approves any modification. In the event that such subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void and the DRB shall institute proceedings to have the plat stricken from the records of the chief administrative officer. Any person altering or attempting to alter any plat subsequent to final development review board approval shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed two hundred dollars ($200.00).

Sec. 10.1.12 Dedication and Acceptance of Public Facilities

(a) Acceptance of streets.

The city council has exclusive authority to accept streets. Upon the effective date of these regulations no city improvements or maintenance shall be authorized on any unaccepted streets except by resolution authority of such city council; or unless security as required herein has first been posted by an applicant. An applicant shall not lay out, open, improve, grade, pave or light any street unless such street corresponds to the street location shown on the approved final plat of such subdivision.

(b) Contract required.

Prior to approval of any final plat, the DRB shall require an applicant to execute a contract pledging to dedicate and convey to the city all property lying within each street right-of-way to be constructed, all land designated for park and/or recreational use and all improvements which will, after a specified period of time, become the property of the city. Such contracts may be executed on behalf of the city by the chairperson of the DRB when duly authorized so to do by the board. The city attorney shall approve all documents as to legal sufficiency, form, and manner of execution.

(c) Private status.

Notwithstanding the execution of any contract requiring future dedication, all proposed streets, park and/or recreational lands and improvements shall remain the private property of the applicant until the same have been formally accepted by the city council. Furthermore, final plat approval by the DRB shall not be deemed to constitute or imply acceptance by said city council. No city department shall install any improvement within an unaccepted street right-of-way until the contract required by this section and the performance bond required by Sec 10.1.10 has been filed with the DRB.

(d) Acceptance procedure.

Upon receipt of a certificate of occupancy under Sec 10.1.10, an applicant shall prepare and submit to the city council for acceptance pertinent deeds describing by metes and bounds all lands pledged to be dedicated to the city by the contract executed under Sec 10.1.12(b). All required easements for utility line maintenance shall likewise be submitted. No such deed or easement may be considered by the council until a certificate of final completion has been issued. Upon proper submission, the city council shall set the matter down for public hearing, and give notice thereof by publication in a newspaper of general circulation in the city at least fifteen (15) days before such hearing. The notice shall state the name and location of the proposed street, park or easement, the name of the grantor on the proposed deed or easement, and the time and place of the hearing. Following such hearing the council shall, upon finding that all requirements of this chapter have been met, and that all liens, encumbrances, or charges of record affecting title or right to such land and/or easements have been discharged, accept such streets, lands, or easements as the property of the city.

(e) Previously developed streets.

Any provision of this chapter to the contrary notwithstanding, the city council may in its discretion, after a warned public hearing, accept a street the development of which shall have been substantially completed prior to the effective date hereof, and which shall be recommended for acceptance by the city engineer and the DRB.

Sec. 10.1.13 Waivers for Required Improvements

Where the DRB, on the recommendation of the city engineer, specifically finds that due to the special circumstances of a particular plat, or because of exceptional or unique conditions of topography, access, location, shape, size, drainage of other physical features of the site, provision of any one or more of the required improvements under this chapter is not requisite in the interest of the public health, safety or general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or proximate to the proposed subdivision, it may waive or modify such requirement(s) subject to appropriate conditions

Such conditions must, in the judgment of the DRB, substantially secure the objectives of the requirements so waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of the zoning regulations, the municipal development plan, the official map, or this chapter. Where a more specific waiver provision is established for any provision of this chapter, this section shall be applicable.

Sec. 10.1.14 As-built Drawings

One reproducible set of drawings showing the location of all required improvements as-built shall be certified by an engineer or land surveyor and filed with the development review board in a digital form and format acceptable to the city engineer and the administrative officer prior to the issuance of any certificate of occupancy.

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ARTICLE 11. PLANNED DEVELOPMENT

Introduction: This Article of the Burlington Comprehensive Development Ordinance provides for greater flexibility in the design and layout of more complex developments in order to encourage and more efficient design, and preserve important natural and cultural features in the City. In exchange for flexibility, and in some cases development incentives, the application must undergo a more rigorous application and review process.

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PART 1. – PLANNED UNIT DEVELOPMENT

Sec. 11.1.1 Intent.

The intent of this Article is to:

(a) Promote the most appropriate use of land through flexibility of design and development of land;

(b) Facilitate the adequate and economical provision of streets and utilities;

(c) Preserve the natural and scenic qualities of open space;

(d) Provide for a variety of housing types;

(e) Provide a method of development for existing parcels which because of physical, topographical, or geological conditions could not otherwise be developed; and

(f) Achieve a high level of design quality and amenities.

Sec. 11.1.2 Authority.

These regulations are enacted under the provisions of 24 V.S.A. Section 4417.

Sec. 11.1.3 General Requirements and Applicability.

Any development involving multiple lots, tracts or parcels of land to be developed as a single entity, or seeking to place multiple structures and/or uses on a single lot where not otherwise permitted, may be permitted as a PUD subject to the provisions of this Article.

A planned unit development may be permitted subject to minimum project size as follows in the following districts:

Districts	Minimum Project Size
RH, RM, RM-W, Downtown and Neighborhood Mixed Use, Institutional[1]	No minimum project size.
RL, RL-W, RCO-R/G[1]	2 acres or more

1. Subject to Conditional Use Review pursuant to Art 3, Part 5.

Sec.11.1.4 Modification of Regulations.

With the approval of the DRB after a public hearing, the following modifications of the requirements of the underlying zoning may be altered within a planned unit development:

- density, frontage, lot coverage, and setback requirements may be met as calculated across the entire project rather than on an individual lot-by-lot basis;
- required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;
- more than one principal use and more than one principal structure may be permitted on a single lot; and,
- buildings may be of varied types including single detached, attached, duplex or apartment construction.

Any proposed modifications of regulations shall be listed in a statement accompanying the application submission and such modifications shall be subject to the provisions of Sec. 11.1.5 and Sec. 11.1.6.

Sec. 11.1.5 Approval Requirements.

The following requirements shall be met for the DRB to approve a planned unit development:

(a) The minimum project size requirements of Sec. 11.1.3 shall be met;

(b) The minimum setbacks required for the district have been met at the periphery of the project;

(c) The project shall be subject to design review and site plan review of Article 3, Part 4;

(d) The project shall meet the requirements of Article 10 for subdivision review where applicable;

(e) Density, frontage, and lot coverage requirements of the underlying zoning district have been met as calculated across the entire project;

(f) All other requirements of the underlying zoning district have been met as calculated across the entire project;

(g) Open space or common land shall be assured and maintained in accordance with the conditions as prescribed by the DRB;

(h) The development plan shall specify reasonable periods within which development of each phase of the planned unit development may be started and shall be completed. Deviation from the required amount of usable open space per dwelling unit may be allowed provided such deviation shall be provided for in other sections of the planned unit development;

(i) The intent as defined in Sec. 11.1.1 is met in a way not detrimental to the city's interests; and,

(j) The proposed development shall be consistent with the municipal development plan.

(k) Any proposed accessory uses and facilities shall meet the requirements of Sec. 11.1.6 below.

Sec. 11.1.6 Accessory Facilities.

(a) A planned unit development may contain a building or buildings intended for use as a community center, recreation facility, child care center and/or business office if the DRB determines that such use or uses are compatible with the intended principle residential use and will not contribute to parking problems on site or in the surrounding area.

(b) A planned unit development may contain a building or buildings intended for non-residential uses such as but not limited to a community convenience store if approved by the DRB under the following standards:

1. A determination shall be made by the DRB that the community convenience store will not contribute to parking problems on site or in the surrounding area.
2. The maximum size of the store is 1000 square feet.
3. Only one sign is permitted limited to the following:
   - A. The maximum size is 4 square feet.
   - B. The sign shall be a parallel sign.
   - C. The sign shall not be illuminated.
   - D. No window signs, temporary or permanent shall be allowed.
   - E. No freestanding signs on the site or within the street ROW are allowed.
4. No outside storage or displays or vending machines, except for a telephone and a screened dumpster, is allowed.
5. There shall be no exterior service windows or exterior ATM's allowed.
6. There shall be no gas pumps allowed.
7. The building(s), sign and site for any such store shall be subject to the development review criteria under Article 6.

8. Parking shall be in back or at the side of the community convenience store building with the building oriented for pedestrian access.

ARTICLE 12: VARIANCES AND APPEALS

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes the process by which a variance from the strict interpretation of dimensional standards of this ordinance can be considered, as well the process to consider appeals of decisions made by the administrative officer or the DRB.

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Sec. 12.0.1 Purpose

It is the purpose of this Article to provide for review of all questions arising out of or with respect to the implementation of this ordinance. Except as specifically provided herein, no DRB may amend, alter, invalidate or affect any development plan or bylaw or the implementation or enforcement thereof, or allow any use not permitted by any zoning regulations or other bylaw.

PART 1. VARIANCES

Sec. 12.1.1 Variances

Use variances shall not be allowed under this ordinance. A variance from the provisions of this ordinance may be granted by the DRB, and a decision rendered in favor of the request for a structure that is not primarily a renewable energy resource structure, if all of the following facts are found and specified in its decision:

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of property;

(c) The unnecessary hardship has not been created by the applicant;

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare;

(e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the municipal development plan; and that,

(f) The variance, if granted, will not result in either the extension of a non-complying situation or allow the initiation of a nonconforming use of land.

Sec. 12.1.2 Variances: Renewable Energy Resource Structures

Where a variance from the provisions of this ordinance is requested for a structure that is primarily a renewable energy resource structure, the DRB may grant such variances, and render a decision in favor of the request if all the following facts are found and the finding is specified in its decision:

(a) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations; and,

(b) That the hardship was not created by the appellant; and,

(c) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and,

(d) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the lease deviation possible from the zoning regulation and from the municipal development plan.

Sec. 12.1.3 Filing a Request, Public Hearing and DRB Decision

A request for a variance is taken by filing a written request with the administrative officer. Such request shall include:

(a) the name and address of the appellant;

(b) a brief description of the property with respect to which the appeal is taken;

(c) a reference to the regulatory provisions applicable;

(d) the relief requested by the appellant; and,

(e) the grounds why such requested relief is believed proper under the variance criteria in Sec 12.1.1 or Sec. 12.1.2.

The DRB shall set a date and place for a public hearing of a request for a variance under this ordinance, which shall be within sixty (60) days of the filing with the administrative officer. The board shall give public notice of the hearing in accordance with Section 2.6.2 hereof.

The burden of presenting evidence sufficient to allow the DRB to reach the conclusions set forth in this Part, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

In rendering a decision in favor of a variance, the DRB may attach such conditions as it may consider necessary and appropriate under the circumstances to implement the purposes of this ordinance and the municipal development plan, and to ensure that the property to which the variance applies will be as compatible as practicable with the surrounding properties.

A variance may be issued for an indefinite duration or only for a specified duration. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirements of this chapter.

PART 2. APPEALS

Sec. 12.2.1 Interested Persons

For the purposes of this ordinance, an interested person means any one of the following:

(a) A person owning title to property affected by a bylaw who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;

(b) The City of Burlington or any municipality which adjoins the city;

(c) A person owning or occupying property in the immediate neighborhood of a property which is the subject of any decision or act taken under the ordinance, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;

(d) Any ten (10) persons owning real property within the city or an adjoining

municipality who, by signed petition to the DRB, the plan or bylaw of which is at issue in any appeal brought under this article, allege that any relief requested by a person under this article, if granted, will not be in accord with the policies, purposes or terms of the plan or bylaw of the city. Such a petition must designate one person so serve as a representative of the petitioners regarding all matters related to the appeal;

(e) Any department and administrative subdivision of the State of Vermont owning property or any interested therein, the city or an adjoining municipality, and the Vermont Agency of Development and Community Affairs; and,

(f) the Burlington Conservation Board.

Sec. 12.2.2 Appeals of Administrative Officer Decisions

Any interested person may take an appeal from any final order or decision of the administrative officer to the DRB within fifteen (15) days after the date of decision or act appealed from as follows;

(a) Notice of Appeal:

An appeal must be taken within fifteen (15) days after the date of decision or act appealed from, and is taken by filing a written notice of appeal with the administrative officer and the DRB. Such notice of appeal shall include:

1. the name and address of the appellant;
2. a brief description of the property with respect to which the appeal is taken;
3. a reference to the regulatory provisions applicable to that appeal;
4. the relief requested by the appellant; and,
5. the alleged grounds why such requested relief is believed proper under the circumstances.

A notice of appeal shall be considered filed with the administrative officer and the DRB when delivered to the planning department, and the date and time of filing shall be entered on the notice by the planning staff; and,

Whenever an appeal is filed, the administrative officer shall forthwith transmit to the DRB all the papers constituting the record relating to the action appeal from.

(b) Hearing within 60 Days:

The DRB shall set a date and place for a public hearing of an appeal under this ordinance, which shall be within sixty (60) days of the filing of the notice of such appeal with the administrative officer pursuant to (a) above. The board shall give public notice of the hearing in accordance with Section 2.6.2 hereof.

(c) Right to Be Heard:

Any person or body empowered under this Article to take an appeal with respect to the property at issue may appear and be heard in person or be represented by an agent or attorney at such hearing.

(d) Burden of Proof:

When an appeal is taken to the DRB in accordance with this section, the administrative officer shall have the initial burden of presenting sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(e) Rejection of Appeal:

The DRB may reject an appeal without hearing and render a decision, which shall include findings of fact, within ten (10) days of the date of filing of the notice of appeal, if the DRB considers the issues raised by the appellant in his or her appeal to have been decided in an earlier appeal or the same in substantially or materially the same facts by or on behalf of that appellant, such decision shall be rendered, or notice given, as in the case of a decision under and shall constitute a decision of the board for the purpose of appeal to environmental court.

(f) Stay of Enforcement:

If a notice of appeal includes a request for a stay of enforcement, and states the grounds for such request with a statement under oath by the appellant that irremediable damage will directly result if such stay is not granted, the DRB may grant a stay of enforcement of the regulatory provisions referred to in the notice of appeal, under such terms and conditions, including, without limitation, a bond to be furnished by the appellant, as the board deems in its judgment and discretion appropriate under the circumstances. Any stay of enforcement granted under this section shall expire upon the expiration of the time to appeal to the environmental court. The grant or denial of a request for a stay shall be given in writing by the board, and shall be sent by registered or certified mail, or delivered, to the appellant within fifteen (15) days of the filing of the notice of appeal with the board.

Whenever practicable, the DRB shall conduct a hearing before deciding on a request for a stay. Any hearing under this section shall be held after publication of notice thereof in a newspaper of general circulation in Burlington, and in two public places within the city, and by mail to the appellant, at least five (5) days prior to the hearing date. However, the DRB may give abbreviated notice where, in its judgment, circumstances require prompt action.

Sec.12.2.3 Appeals of Development Review Board Decisions

An interested person may appeal a decision of the DRB to the Vermont Environmental Court within 30 days of the date of the written decision as follows;

(a) Notice of Appeal:

The appeal shall be taken in such a manner as the Supreme Court or the environmental court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3, Vermont Statutes Annotated. Notice of the appeal shall be sent by mail to every interested person appearing and having been heard at the hearing before the DRB, and, if any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

(b) Appeal to Environmental Court - On the Record:

If the city council has determined (or been instructed by the voters) to provide that appeals of DRB determinations shall be on the record, has defined the magnitude or nature of the development proposal shall be subject to the production of an adequate record by the panel, and has provided that the Municipal Administrative Procedure Act shall apply in these instances, then an appeal from such decision of the DRB shall be taken on the record in accordance with the Vermont Rules of Civil Procedure.

Sec. 12.2.4 Exclusivity of Remedy

Except as otherwise provided by state statue, the exclusive remedy of an interested person with respect to any decision or act taken, or any failure to act, under this ordinance or any one or more of its provisions shall be the appeal to the DRB, and the appeal to Vermont environmental court from an adverse decision upon such appeal.

Except as otherwise specified by statute, the exclusive remedy of an interested person with respect to any decision or act taken, or any failure to act, under this chapter or with respect to any one or more of the provisions of any plan or bylaw shall be an appeal to the DRB, and the appeal to the environmental court from an adverse decision upon such appeal. The appeal to the environmental court, if not on the record, as allowed under 24 VSA Section 4471, shall be governed by the Vermont Rules of Civil Procedure and such interested person shall be entitled to a de novo trial in the environmental court. If the appeal to the environmental court is on the record, according to the provisions of 24 VSA Section 4471, it shall be governed by the Vermont Rules of Civil Procedure. Whether proceeding on the record or de novo, the court shall have and may exercise all powers and authorities of a superior court.

Sec. 12.2.5 Finality

Upon the failure of any interested person to appeal to the DRB or to the environmental court, all interested persons affected shall be bound by such decision or act of such administrative officer, such provisions or such decisions of the DRB, as the case may be, and shall not thereafter contest, either directly or indirectly, such decision or act, such provision, or such decision in any proceeding, including without limitation, any proceeding brought to enforce this ordinance.

ARTICLE 13: DEFINITIONS

Introduction: This Article of the Burlington Comprehensive Development Ordinance provides definitions of terms, concepts, and uses found throughout the ordinance.

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Sec. 13.1.1 Miscellaneous.

For the purposes of this ordinance,

(a) Words used in the singular include the plural and words used in the plural include the singular;

(b) Words used in the present tense include the future;

(c) The word "shall" is mandatory and not merely directory;

(d) The word "building" includes "structure";

(e) The word "lot" includes the word "plot"; and,

(f) The word "land" includes the words "marsh", "wetland" and "water".

Sec. 13.1.2 Definitions.

For the purpose of this ordinance certain terms and words are herein defined as follows:

Unless defined to the contrary in Section 4303 of the Vermont Planning and Development Act as amended, or defined otherwise in this section, definitions contained in the building code of the City of Burlington, Sections 8-2 and 13-1 of the Code of Ordinances, as amended, incorporating the currently adopted edition of the American Insurance Association's "National Building Code" and the National Fire Protection Association's "National Fire Code" shall prevail.

A

Academic Space: Spaces within buildings owned or leased by an educational institution for classrooms, laboratories, chapels, auditoriums, and lecture halls.

Accessible Unit: a housing unit designed, constructed or altered such that the unit is located on an accessible route and can be approached, entered and used by an individual regardless of any disabilities an individual may have, as set forth in the specifications of the American National Standards Institute's "Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People, A117.1-1986," or the latest edition thereof.

Accessory Appurtenance, Building or Use: A use or detached building that:

(a) Is located on the same lot as the principal use or building served;

(b) Is clearly incidental to and customarily found in connection with the principal use or building; and

(c) Is subordinate in area, extent, or purpose to the principal use or building served, and is not to exceed twenty-five percent (25%) of the gross area or sales of the principal use or building served.

Accessory Dwelling Unit or Apartment: An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

Adaptive Reuse: For the purposes of this ordinance, adaptive reuse shall refer to the rehabilitation of a building or site 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 where alterations do not radically change, obscure, or destroy character-defining spaces, materials, features, or finishes.

Administrative Determination: Any decision made by the Administrative Officer or an Assistant Administrative Officer.

Administrative Officer(s): The person or persons designated pursuant to Article 2 to receive and process applications under this ordinance, also known as the zoning administrator, zoning administrative officer and to include chief assistant administrative officer and assistant administrative officer(s).

Affordable Housing/Unit: A housing development or unit for which the monthly rent, monthly carrying charge (including utilities paid by the tenant or co-op member), or monthly mortgage payment plus the average monthly utilities cost does not exceed thirty percent (30%) of household income adjusted for household size or for which carrying charges paid by the owner-occupant (including mortgage payments, taxes, condominium fees, and insurance) shall not exceed thirty percent (30%) of the household's income. A household size of 1.5 shall be used in determining whether a one (1) bedroom unit is affordable housing. A household size of 3, 4, 5, and 6, respectively, shall be used in determining whether a two (2) bedroom unit, three (3) bedroom unit, or a four (4) bedroom unit is affordable housing.

Agriculture (See also Urban Agriculture): For the purposes of this ordinance, agriculture shall mean accepted agricultural practices, including the construction of farm structures, as defined by the Vermont Secretary of Agriculture, Food, and Markets under 10 V.S.A. Sec. 1021 (f) and 1259 (f) and exempted from zoning review under V.S.A. 24 Sec. 4413 (d).

Agricultural structure (see Farm structure)

Alteration: The rearrangement of the exterior features including bearing walls, doors, windows, exits or facades; the construction, addition, reconstruction, moving, or demolition of any exterior portion of the structure; the rearrangement of interior space, including the addition of walls, halls, steps, elevators, and escalators, but not including ordinary maintenance or repairs.

Amusement Arcade: An indoor or outdoor area or structure open to the public, which contains coin operated games and similar entertainment and amusement devices.

Animal

(a) **Boarding:** An establishment involving any structure, land, or combination thereof used, designed, or arranged for the keeping of five (5) or more domestic pets more than three (3) months of age for profit or exchange, inclusive of equines but exclusive of other livestock used for agricultural purposes in areas approved for agricultural uses. The keeping of four (4) or less such animals more than three (3) months of age for personal enjoyment shall not be considered "boarding" for the purposes of this ordinance.

(b) **Domestic Pet**: Any canine, feline, or European ferret (Mustela putorious furo) and such other domestic animals as the Secretary of the Agency of Agriculture, Food and Markets shall establish by rule and that has been bred or raised to live in or about the habitation of humans, and is dependent on people for food and shelter.

(c) **Livestock:** Animals used for food production (including eggs, milk, honey, and meat) or fiber.

(d) **Grooming:** Any establishment where domestic pets are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health.

(e) **Hospitals:** An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence. (See Veterinarian Office)

(f) **Kennel:** Accessory building or enclosure for the keeping of domestic pets.

(g) **Barn or coop**: Accessory building or enclosure for the keeping of livestock.

(h) **Shelter:** A facility used to house or contain stray, homeless, abandoned, or unwanted domestic pets or livestock for the purpose of providing temporary kenneling and finding permanent adoptive homes and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and human treatment of animals.

(i) **Store, Pet**: A retail sales establishment primarily involved in the sale of domestic pets, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and livestock.

Apartment: A single dwelling unit located in a building containing more than two dwelling units or a single dwelling unit located in a mixed-use building. (See Dwelling Unit and Mixed Use Building)

Appliance Service: An establishment whose primary activity is the provision of assistance, as opposed to the sale of products, for the on site repair and service of portable household appliances, devices or instruments including but not limited to, vacuum cleaners, televisions, toasters, hairdryers; and may also provide off site repair and service (service calls to customer) of non-portable domestic appliances including but not limited to, washer machines, dryers, refrigerators, freezers and stoves.

Appurtenance, Attached or Detached: Any visible, functional or ornamental objects accessory to a building, structure, or site, including, but not limited to, windmills, sheds, outbuildings, garages, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs. (See Accessory Appurtenance, Building or Use)

Aquarium: An establishment where collections of primarily living aquatic organisms are kept and exhibited.

Area, Gross: The total area of a lot or parcel of land including street rights of way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities. "Gross area" is expressed in either acres or square feet. (Also "considered gross leasable" where applicable).

Area, Gross Leasable Floor Area: The total floor area of a building designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, expressed in square feet as measured from the center line of joint partitions and from outside wall faces.

Area, Net: The total area of a lot or parcel of land, excluding street rights of way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities. "Net area" is expressed in either acres or square feet.

Art Gallery/Studio: An establishment in which original works of art or limited editions of original art are created, bought, sold, loaned, appraised, or exhibited to the general public.

Art, public: Any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas; or, on non-city property if the work of art is made available, installed or financed, either wholly or in

part, with city funds or grants procured by the city or in exchange for additional developable area pursuant to applicable provisions of this ordinance.

Assisted Living: Supported living arrangement, including help with daily activities, such as dressing, grooming, bathing, etc.

Auction House: A building, area, or areas within a building used for the non-continuous public sale of goods, wares, merchandise, or equipment to the highest bidder. The bidding is conducted in person. This definition excludes therefrom an auction, the principal purpose of which is the sale of livestock or motor vehicles.

Automated Teller Machine (ATM): An automated device that performs banking or financial functions at or in a location remote from the controlling financial institution.

Automobile: Motor vehicles including but not limited to motorcycles, passenger cars, light trucks, vans, and similar size vehicles that have gross vehicle weights less than 10,000 pounds. (See Trucks)

Automobile Body Shop: A facility which provides collision repair services, including body frame straightening, replacement of damaged parts, and painting of automobiles, trailers, and recreational vehicles.

Automobile Impound: A facility that provides temporary outdoor storage of automobiles, trailers, and recreational vehicles that are to be claimed by titleholders or their agents.

Automobile & Marine Part Sales: An establishment which sells new or used parts and accessories for automobiles, trailers, recreation vehicles, or boats.

Automobile Sales – New & Used: An establishment for the storage and display for sale of more than two automobiles or trailers.

Automobile Salvage/Junkyard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of automobile parts from automobiles that are not in running condition.

Automobile/Vehicle Repair/Service: An establishment for the general repair, servicing, rebuilding, or reconditioning of automobiles, recreational vehicles, or trailers.

Average Monthly Utilities Cost: The Section 8 housing allowances for tenant-furnished utilities and other services for the Burlington MSA, as promulgated from time to time by HUD, and as adjusted for building type, level of energy efficiency, unit size, and the type of utilities and services actually provided in a particular housing unit.

Awning: A hood, cover or porte-cocheres often comprised of fabric, metal, or glass that is designed and intended to provide for protection from the elements or as a decorative appurtenance, and which projects from a wall or roof of a structure over a window, walk, door, landing, public right-of-way or the like, and that may include a type which can be retracted, folded, or collapsed against the face of a supporting building. An awning with symbols, logo(s) or lettering (excluding the street address) are considered a sign for the purposes of this ordinance.

B

Bakery: An establishment used for the preparation of bread, cake, cupcakes, confections and other similar baked pastries.

(a) **Retail:** An establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site. Such use may include incidental food service.

(b) **Wholesale:** A bakery in which there is permitted the production and/or wholesaling of baked goods, but where over-the-counter or other retail dispensing of baked goods shall be limited to an accessory function.

Bank/Credit Union: A financial institution open to the public and engaged in deposit banking, and performs closely related functions such as making loans, investments, exchange of money, facilitating the transmission of funds and other fiduciary duties.

Bar: An establishment, or portion thereof, subject to Vermont Liqueur Control Regulations and primarily devoted to the serving and on-premise consumption of alcoholic beverages, and where the service of food is only incidental to the consumption of such beverages (alcoholic beverage is greater than fifty percent (>50%) of the gross sales of food and beverages at the establishment). (See Restaurant)

Barber Shop: An establishment or place of business of one or more individuals whose practice is the cutting, trimming or shaving of head or facial hair. Said use does not include chemical treatments such as perms or dyes.

Basement: A portion of any building located wholly or partly underground and having half or more than half (≥ 50%) of its clear floor-to-ceiling height below the average finished grade of the immediately adjacent or relative adjoining ground.

Bed and Breakfast: An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.

Bedroom: A room located within a housing unit that is used primarily for sleeping purposes by human occupants and that contains at least seventy (70) square feet of floor area.

Bicycle Parking, Long Term: Facilities which protect the entire bicycle, its components, and accessories against theft inclement weather, including wind-driven rain.

Bicycle Parking, Short Term: Bicycle racks which permit the locking of the bicycle frame and one wheel to the rack and which support the bicycle in a stable position without damage to wheels, frame, or components

Bicycle Sales/Repair: An establishment where bicycles are repaired and/or sold.

Billiard Parlor/Pool Hall: A building or portion thereof having within its premises three or more pool tables or billiard tables, or combination thereof, regardless of size, and whether activated manually or by the insertion of a coin, token, or other mechanical device.

Boarding House: A building or premises where rooms are let to individuals for compensation for a period of time greater than thirty (30) days, and where meals may be regularly served in a common dining area. Hotels, motels, apartment houses, bed and breakfasts, dormitories, sorority, fraternities and historic inns, shall not be considered boarding houses.

Boat: Any type of vehicle or watercraft designed and intended for traveling in or on water.

Boat Repair/Service: An establishment for the general repair, servicing, rebuilding, or reconditioning of boats, where boats are repaired and stored only until repairs are completed.

Boat Sales/Rental: An establishment for retail sales and service in which boats are rented or sold. The sale or rental of non-motorized boats smaller than 25 feet and/or less than 150-pounds shall be considered general merchandise and not included.

Boat Storage: A space or place where boats are placed and kept for more than 24 consecutive hours.

(a) **Private:** A storage facility on a site used for the property owners own boat(s) without compensation.

(b) **Yard:** A storage facility used for boat(s) where compensation is paid for said storage.

Bowling Alley: An indoor facility that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing areas with customary accessory uses such as snack bars.

Brownfield: Abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

Buffer: An area designated to act as a visible or environmental separation between lots, districts, structures, or uses.

Build-to Line: A line to which at least a specified portion of the front wall of a building is to be constructed. A build-to line runs parallel to the front property line and the public right-of-way, and is established to create a consistent row of building facades along a street.

Building Code: The Building Code of the City of Burlington contained under Chapter 8 of the City Code of Ordinances.

Building Height: The vertical measurement of a building. See Sec. 2.7 for specific calculation provisions.

Building Inspector: The administrative officer of the building code for the City of Burlington.

Building Lot: A lot or parcel of land upon which a structure may be legally constructed. (See definition of lot).

Building Material Sales: The sale of goods for building construction purposes, which may include outdoor storage of products.

Building Permit: A permit issued by the Building Inspector for the construction, alteration or removal of a structure subject to the building code for the City of Burlington.

C

Café: Any food service establishment subject to Vermont Health Regulations containing less than or equal to 2,000 gross square feet where food and beverages are prepared, and served for consumption either on or off premises. (See Restaurant)

Campground: An area of land containing temporary or permanent buildings, tents, or other structures established or maintained as a temporary living quarter for recreation, religious, education, or vacation purposes, it may also be designed or improved for seasonal use of recreational vehicles, motor homes or mobile trailers.

Canopy: An attached or detached accessory structure intended to provide protection from inclement weather for drivers seeking goods or services. Examples of canopies include fuel pump canopies at gas stations, drive-through canopies at banks or pharmacies. Hotel or residential porte-cocheres are not canopies for the purposes of this ordinance.

Car Wash: The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Caterer: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served exclusively for consumption off-premises. (Also see Café, Restaurant and Restaurant, Take-Out)

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for such purposes including columbariums and mausoleums, when operated in conjunction with and within the boundary of land permitted or allowed for such purposes.

Certificate of Inclusionary Housing Compliance: A certificate approved by the Housing Trust Fund, in consultation with the Community and Economic Development Office, which certificate provides legal assurance that a developer's obligations under this ordinance will be satisfied.

Chief Administrative Officer: The chief administrative officer of the City of Burlington.

Cinema: An establishment devoted to showing motion pictures.

Clear Sight Triangle: An area formed for the purpose of traffic and/or pedestrian safety. See Section 5.2.3 for specific provisions.

Club, Membership: An organization and associated properties, buildings or facilities owned or operated for the exclusive use and benefit of members and their guests for social, intellectual, educational, or recreational purposes, but not primarily for profit or to tender a service that is customarily carried on as a business. Specifically excluded are fraternities and sororities.

Code Enforcement Office: The Code Enforcement Office of the City of Burlington.

Cold Frame: A temporary structure placed overtop of a garden bed typically made of, but not limited to, glass, plastic, fabric or other material used to extend growing season or protect seedlings and plants from the cold or heat.

Color Rendering Index: A figure of merit, on a scale of 0 to 100, used by manufacturers of fluorescent, metal halide, and other non-incandescent lighting equipment to describe the visual effect of the light on colored surfaces.

Commercial: Any activity involving the purchase, sale, storage, or other transaction regarding the disposition of any article, substance, commodity, or services for consideration and profit; and the maintenance or conduct of offices, professions, dwelling rooms and units, or recreational or amusement enterprises conducted for profit.

Community Center: A facility or portion thereof which provides recreational, educational or cultural activities for the residents of that immediate neighborhood.

Community Garden: A private not for profit or public common area used by a group of households to grow and harvest food crops or non-food crops (e.g. flowers) for personal or group consumption, for donation, or for sale. Community gardens may be principal or accessory uses and may be located on a roof or within a structure.

Community House: A community house is a residential dwelling unit where individuals are not handicapped as per the Federal Fair Housing Act but where, due to the particular needs of the resident individuals, a joint living arrangement is necessitated and where the individuals are under sponsorship or care of a public, nonprofit, or for profit agency where the sponsor or caretaker provides, or arranges for, the provision of varying degrees of personal supervision and/or care in a residential environment, such as a halfway house, a personal care residence, a community transitional facility, or any other such facility that provides such services.

The following are not considered community houses: group homes, fraternities, sororities, dormitories, convents, communes, apartments, boarding and rooming houses, tourist homes, and hotels and motels. See Article 5 for specific provisions.

Composting: A facility engaged in the controlled biological decomposition of organic matter through active management to produce, use, or sell a stable humus-rich material but shall not mean sewage or septage or materials derived from sewage or septage.

Conditions: Those requirements, as denoted or assigned in conjunction with the approval of a zoning permit, which must be met prior to the issuance of a zoning permit or certificate of occupancy.

Conditional Use: Certain uses that may be allowed only by approval of the Development Review Board subject to affirmative findings under general and specific standards, as outlined in Article 3 of this ordinance.

Conference Center: A facility used for governmental and service organizations, business and professional conferences, and seminars along with associated accessory functions. The provision of rooms for rent and meals generally available to the public shall not be considered accessory uses. (See Convention Center)

Conservation Legacy Fund: A fund established by the City Council, administered by the Department of Parks and Recreation, and used to acquire park and/or recreational property or to improve existing park and/or recreational facilities.

Contractor Yard: Storage yards operated by, or on behalf of, a contractor for storage of large equipment, vehicles, or other materials commonly used in individual contractor's type of business; storage of materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

Convalescent Home: A health center or home licensed by the State of Vermont where patients are given custodial or chronic medical, psychiatric, or psychological care but shall exclude acute care on a continuing basis. Also known as a Nursing Home.

Convenience Store: A retail store no larger that 5,000 gross square feet that is open extended hours and that typically sells limited lines of groceries, household items, snacks and may include the sale of gasoline or other motor fuel where permitted, and is intended for the convenience of the surrounding neighborhood.

Convention Center: A facility designed to be used for conventions, conferences, seminars, product displays, trade shows, special events, recreational activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption, excluding the provision of rooms for rent. (See Conference Center)

Conversion to a Nonresidential Use: A change in use of any housing unit, whether occupied or vacant, from a residential to a nonresidential use.

Correctional Facility: Any building, enclosure, space or structure of or supported by the Vermont Department of Corrections and used for the confinement of person committed to the custody of the Commissioner of the Vermont Department of Corrections, or for any other matter related to such confinement. See 28 V.S.A. §1 et seq.

Courthouse: A building housing judicial courts and associated administrative offices.

Crisis Counseling Center: An establishment containing offices and facilities for providing direct services and support resources to victims of domestic abuse or sexual assault by certified crisis workers as defined under Vermont statute (12 V.S.A. §1614).

Crematory: A building containing a properly installed, certified apparatus, typically a furnace, intended for use in the act of cremation (burning a cadaver to ashes).

D

Day Care Center: (See Article 5 for specific provisions.)

(a) **Family Day Care Home:** A state-registered or licensed daycare facility serving up to six (6) pre-school plus four (4) school-aged children. A family day care shall be considered by right to constitute a permitted accessory use to single detached dwellings.

(b) **Small Day Care Center:** A state-registered or licensed daycare facility serving no more than twenty (20) full-time children in total.

(c) **Large Day Care Center:** A state-licensed facility providing day care services for more than twenty (20) full-time children.

Demolition: The destruction and physical removal of any structure or portion of a structure.

Demolition by Neglect: Any neglect in the maintenance and repair of a structure which results in the deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows; the lack of adequate waterproofing; or the deterioration of interior features which will or could result in permanent damage, injury, or loss of foundations, exterior walls, roofs, chimneys, doors, or windows or so as to create or permit a hazardous or unsafe condition to exist.

Density Calculation: A calculation based on the lot size and the allowable units per acre or FAR in a given zoning district.

Density Equivalent, Nonresidential: A conversion factor that is used in calculations that are normally made using units per acre to quantify the square footage of a proposed non-residential use in comparable terms.

Dental Lab: An establishment where products are produced for dentistry purposes, including but not limited to, crowns, dental plates and artificial teeth; does not include facilities for the care and treatment of patients.

Design Advisory Board: A board appointed by the City Council to give guidance to the Development Review Board in the areas of landscaping, architecture, engineering and other pertinent site and architectural design criteria pursuant to this ordinance. See Article 2.

Design Review/Design Control District: Any defined area of the city that is subject to Design Review, as outlined in Article 6, in order to receive consideration for a zoning permit.

Development: Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; including but not limited to the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any human activity that alters a shore, beach, river, stream, lake, pond, canal, marsh, woodlands, wetland, rare or endangered species habitat, aquifer or other resource area, including shoreland construction or other activity.

Development Review Board or Board: A quasi-judicial decision-making board created by the Burlington City Council pursuant to 24 V.S.A. §4460.

Direct Illumination: Illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

Distillery: An establishment for distilling (the evaporation and subsequent collection of a liquid by means of condensation), especially for distilling alcoholic liquors.

Distribution Center: A use where goods are received and/or stored for delivery to remote locations.

Dormitory: A structure owned or operated by an accredited educational institution specifically designed for stay of an academic term by students of that institution for

the purpose of providing individual beds for sleeping purposes. Shared kitchen and bathroom facilities and some gathering rooms for social, cultural, or educational purposes may also be provided.

Dry Cleaning/Laundry Service: An establishment or business maintained for the drop off, pickup and/or delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

Dry Cleaning Plant: A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

Duplex: A single structure containing two (2) separate dwelling units, regardless of the type of construction. For purposes of this ordinance a single-family detached structure with an accessory apartment shall not be considered a duplex.

Dwelling Unit (or Housing Unit)**:** A room or set of rooms fitted with a private bath, kitchen, and living facilities comprising an independent, self-contained dwelling space occupied by a family and where rooms are not let to individuals. Kitchen, living and shared bathroom facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units: or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary bathroom or (B) share a single common kitchen as the primary kitchen. (See also definition of Family and Rooming Unit)

Dwelling Unit, Single Detached: Free standing residential structure containing a single dwelling unit occupied by a "family." and where rooms are not let to individuals. Also known as a single family residence (SFR). (See definition of Family)

E

Easement: An acquired right of or upon the property of another for a specified purpose.

Elderly Housing: See Housing, Senior.

Electronic Message Display: A sign in which one or more illuminated characters in a display may be changed by electronic means.

Environmentally Sensitive Area(s): Land that contains physical environmental characteristics including but not limited to the following: wetlands; streams and riparian areas; floodplains; slopes 30 percent or greater; landslide hazard areas and other geological hazards and critical fish and wildlife habitat. These areas typically either present a constraint to development or are extremely susceptible to development impacts.

Estimated Development Cost: Cost calculated based upon building construction, alteration, and/or structural site improvement expenses including but not limited to fill, grading, cutting, etc. Not included in this figure is the purchase price of the land and the final interior finishes relative to a specific tenant, i.e. specialized equipment, finishes, furniture, drapes, etc. See Article 3.

Exterior Features: The architectural style, design, and general arrangement of the exterior of a structure, including the type and texture of building materials, and the type, arrangement, and style of all windows, doors, light fixtures, signs, or similar items found on or affixed to the exterior of a structure.

F

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:

(a) Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).

(b) A "functional family unit" as defined below.

(c) Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the "Fair Housing Amendments Act of 1988".

(d) A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4412(5), as the same may be amended from time to time.

(e) No more than four unrelated adults and their minor children.

Provided that a dwelling unit in which the various occupants are treated as separate roomers cannot be deemed to be occupied by a family.

For purposes of this definition of family, a group of adults living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods shall be regarded as a "functional family unit" and shall also qualify as a family hereunder.

1) In determining whether or not a group of unrelated adults is a "functional family unit", under the standard set forth above, the following criteria must be present:

   a. The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.

   b. The household must have stability with respect to the purpose of this chapter. Evidence of such stability may include but not be limited to, the following:

      i. Minor dependent children regularly residing in the household, and school age children are enrolled in local schools.

      ii. Proof of the sharing of expenses for food, rent, or ownership costs, utilities and other household expenses and sharing in the preparation, storage and consumption of food.

      iii. Whether or not different members of the household have the same address for purposes of:

         1. Voter registration
         2. Drivers' licenses
         3. Motor vehicle registration
         4. Summer or other residences
         5. The filing of taxes

   c. Common ownership of furniture and appliances among the members of the household.

   d. Employment of householders in the local area.

   e. A showing that the household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.

f. Any other factor reasonably related to whether or not the group or persons is the functional equivalent of a family.

2) The initial determination of whether a "functional family unit" status exists shall be made by the Code Enforcement Office ("CEO"). The burden will rest upon the individuals claiming "functional family status" to submit information to the CEO to substantiate their claim. Some of the information provided to the CEO as part of a "functional family unit" status request, as well as the CEO's initial determination, may be highly confidential, and, thus, will be maintained in a separate "red envelope" in the property file. It will be left to the CEO to determine whether the information is sensitive enough to be retained in the "red envelope." Information maintained in the "red envelope" will be considered confidential and thus used only by the CEO. Access to the "red envelope" by persons outside of the CEO will only be allowed under court order or during litigation regarding said property.

Farm(ing): The use of land and/or structures for agricultural purposes. (See Agriculture and Urban Agriculture)

Farm Structure: A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. subsection 6001(22), but excludes a dwelling for human habitation.

Fence: A structure serving as an enclosure, a barrier, or a boundary usually made of posts or stakes joined by boards, wire or rails.

Film Studio: An establishment for movie production.

Finished Grade: The final elevation of the ground surface after all man-made alterations, such as grading, grubbing, filling, or excavating, have been made.

Fire Station: A building used to house fire fighting equipment and firefighters.

Flood Hazard Area - *See Article 13, Part 2 below for all Flood Hazard Definitions***.**

Floor Area Ratio: The ratio of above ground gross floor area to gross site area or, a multiplier representative of the development limits of a site applied to the parcel/land size.

Food Processing: The preparation and packaging of food products for sale. Including but not limited to bakeries and dairies.

Footcandle: A unit of measure for illuminance. A unit of illuminance on a surface that is within a one (1) foot radius from a uniform point source of light of one (1) candlepower and equal to one (1) lumen per square foot.

Frontage: (See Article 5 for specific measurement calculations.)

a. **Building:** That portion of a building that faces a public street or right of way.
b. **Street:** That dimension of the lot which abuts a public street or right of way.

Front Yard: The full width of property along a street frontage and between the structure and the right of way. See Article 5 for specific measurement calculations.

Fuel Service Station: Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuel, or that is used or designated to be used for lubricating, washing, cleaning or otherwise servicing motor vehicle, but not including the painting or major repair thereof or the use of mechanical car washing equipment. A service station may also include a convenience store, provided that the store is accessory to the fuel or service station building.

Full Cut-off Fixture: A luminaire or light fixture that by design of the fixture housing, does not allow any light dispersion or direct glare to shine above a 90-degree, horizontal plane from the base of the fixture.

Fully Shielded Fixture: A light fixture constructed and mounted such that no light rays are emitted, either directly from the lamp or indirectly by reflection or refraction from any part of the luminaire above the horizontal plane running through the lowest point of the fixture where light is emitted.

Functional Family: See Family.

Funeral Home: A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this ordinance, may include a funeral chapel.

G

Garage: A building or structure, or a portion thereof which is designed for the storage of motor vehicles.

Garage Sale: Any sale entitled "garage sale," "lawn sale," "moving sale," "rummage sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large can be aware of such sale. More than six days of sales within a 12-month period is considered commercial retail sales for the purposes of this ordinance.

Garden Supply Store: A place of business where retail and wholesale gardening products and produce are sold to the consumer. These centers may include a nursery and/or greenhouses.

General Merchandise/Retail: Goods bought and sold in business. (See definition of retail.)

Glare: Stray, unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.

Green House: A permanent structure typically made of, but not limited to, glass, plastic, or fiberglass in which plants are cultivated.

Grocery Store: A retail establishment where most of the floor area is devoted to the sale of prepackaged and perishable food products for home preparation and consumption, which typically also offer other household and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

Gross Floor Area: The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses as measured from the exterior faces of the walls. It does not include un-insulated porches if said areas are not used for human occupancy. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

Group Home: A residential dwelling unit occupied by unrelated individuals as a single nonprofit housekeeping unit only if all said occupants, with the exception of supervisory personnel, are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the "Fair Housing Act of 1988". Such unrelated individuals shall have the right to occupy a residential dwelling unit in the same manner and to the same extent as any family unit as defined in this article.

H

Habitable: A space in the building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Hazardous Waste Collection/Disposal: All structures, other appurtenances, and improvements on the land used for collection, processing, treating, storing, or disposing of hazardous waste generated offsite or brought in from offsite, including all operations or storage areas, diked overflow, or emergency spillway areas. A hazardous waste disposal facility may consist of several treatment, storage, or disposal operational units; it includes all areas where hazardous waste may be received, stored, handled, or processed. Said facility must be state certified. This shall not be interpreted to include collection, handling, and temporary storage of hazardous wastes generated on a property as part of normal activities of any use authorized under this ordinance.

Health Club: An indoor facility, between 5,000 and 20,000 square feet in size, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, laser tag, paint ball, miniature golf, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, climbing wall, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities. Said establishment may or may not include membership. (See also Health Studio and Indoor Recreational Facility.)

Health Care Hospitality: An establishment providing temporary guest rooms and lodging services with or without compensation to patients receiving medical treatment, and/or their family members. Such an establishment may also include secondary educational programs, recreational activities, and non-clinical support services.

Health Studio: A facility less than 5,000 square feet in size used for fitness instruction and classes in such disciplines as yoga, pilates or other similar exercises and includes exercise facilities. Such facility has no fixed seating.

Historic Inn: A building which has the primary use of housing overnight guests, subject to the criteria of Article 5, Sec. 5.4.2, that is listed or eligible for listing on the State or National Register of Historic Places.

Historic Resource: Buildings, structures, landscapes, places and sites that are listed or eligible for listing on the National Register of Historic Places.

Historic Site: The location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance and is listed or eligible for listing on the State or National Register of Historic Places.

Housing Unit: See Dwelling Unit.

Home Occupation: An accessory use of a dwelling unit for employment involving the provision of services or the fabrication of goods. Home occupations are subject to all the procedures, conditions, and standards of Article 5, Sec 5.4.6.

Hoop House: A temporary structure typically made of, but not limited to, piping or other material covered with translucent plastic, constructed in "half-round" or "hoop" shape, for the purposes of growing plants.

Horizontal Illuminance: The measurement of brightness from a light source, usually measured in footcandles or lumens, which is taken through a light meter's sensor in a horizontal position.

Hospital/Medical Center: An institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities. This definition shall not include convalescent or nursing homes, community houses, or other similar facilities.

Hostel: A place where travelers may stay for a limited duration, as recognized by the International Hostel Association.

Hotel, Inn or Motel: An establishment providing for a fee three or more temporary guest rooms and customary lodging services, and subject to the Vermont rooms and meals tax.

Housing, Senior: Housing that is designed for, and is occupied primarily by, those persons fifty-five (55) years of age or older.

I

Inclusionary Unit or Affordable Inclusionary Unit: Any dwelling unit within any covered project that is made affordable pursuant to Article 6 Part 1 of this ordinance.

Institutions: Public and private uses including, but not limited to, colleges, universities, hospitals, churches and membership clubs.

Interested Person: A person who has participated in a municipal regulatory proceeding authorized under 24 VSA Ch. 117 who may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

L

Lakefront: Lake front or lakeshore means the water's edges of Lake Champlain at the ordinary high water mark (the elevation of one hundred (100) feet above mean sea level) unless otherwise defined.

Lamp: The light-producing source installed in the socket portion of the luminaire.

Landscape Areas: The portion of a lot that is not defined as “lot coverage” including grass, ground covers, gardens, shrubs, trees, and natural areas. Landscaped open space shall not include parking, drives, or impervious walkways.

Laundromats: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Laundry: The process of laundering, the cleaning of fabrics, textiles, apparel, or articles of any sort by immersion and agitation.

Legislative Body: The Burlington City Council with Mayor presiding.

Library: A facility in which literary, musical, artistic, or reference materials including but not limited to books, manuscripts, computers, recordings, or films are kept for use by or on loan to patrons of the facility, but are not normally offered for sale.

Light Trespass: Light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

Lighting, Festoon: A method of illuminating a structure with a group of incandescent bulbs hung or strung overhead or used to outline a structure or any part thereof.

Lighting Fixture: See luminaire. An assemblage of ballast, lamp receptacles, wiring, reflectors, refractors, prisms, lenses, etc., all contained within a single housing or casing, and designed to be mounted as a single unit. A fixture may be designed to accept one (1) or more lamps. One (1) or more fixtures may be mounted to a single support.

Limited Equity Dwelling Unit: Any dwelling unit in which the occupant possesses an ownership interest and which is kept affordable for low- or moderate-income households through restrictions upon equity accrual of the occupant's ownership interest.

Loading Area: A parking space or berth, directly serving a building for the loading or unloading of merchandise or material, and which has access to a street, alley or other appropriate means of ingress and egress.

Lot: A parcel of land distinguishable from other parcels by deed, as recorded in the City of Burlington Land Records on a subdivision plat, record, or survey map, or as

described by metes and bounds, and intended for transfer of ownership or for building development. For purposes of this ordinance, the term does not include any portion of a dedicated right-of-way.

Lot, Corner: A lot abutting two (2) or more streets at their intersection.

Lot Coverage: The total at grade area or footprint of all structures and impervious surfaces including but not limited to parking areas, walkways drives, etc.; expressed as a percent of the total lot area. (See Art. 5)

Lot Line Adjustment: The relocation of a common property boundary where an additional lot is not created and where an existing lot reduced in size by the adjustment complies with the dimensional requirements of this ordinance. In addition. a lot line adjustment shall include the addition and subtraction of vestigial alleys when being combined with an adjacent lot. See definition of Lot above.

Lot Merger: The combination of two or more lots into one single lot pursuant to a single deed. See definition of Lot above.

Low-income Household: A household with income not exceeding eighty percent (80%) of median income for the Burlington MSA, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. Section 1437 et seq.

Low Output Lamps: Lamps with an internal lumen output of 2,000 lumens or less. Examples of lamp types of 2,000 lumens and below are: 100-Watt Standard Incandescent, 15-Watt Cool White Fluorescent, 15-Watt Compact Fluorescent, and 18-Watt Low Pressure Sodium.

Lumberyard: A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

Lumen: A unit of measure of the quantity of light that falls on an area of one square foot every point of which is one foot from the source of one candela. A light source of one candela emits a total of 12.57 lumens.

Luminaire: Means the complete lighting system, including all necessary mechanical, electrical, and decorative parts.

M

Machine/Woodworking Shop: Shops less than 10,000 square feet where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops. Includes stone cutting but excludes drop forge.

Manufacturing: The mechanical or chemical transformation of materials or substances into new products, including but not limited to the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, metal, wood, stone, etc. Includes drop forge. Manufacturing establishments are greater than or equal to 10,000 square feet.

Manufacturing-tour Oriented: A manufacturing and/or processing establishment in which public tours are accommodated and incorporated into the facility's ordinary operations and may include the accessory retail sale of products or goods produced on the premises.

Marina: Facility for berthing, rental, repair, fueling, and sale of recreational marine craft for a fee.

Market Unit: A dwelling unit that is available for sale or rent at a price determined by the economy at which both the buyer and the seller are willing to do business, where each is informed as to the advantages and limitations of the property. This definition does not include either Inclusionary or affordable Inclusionary units, as defined herein.

Mean Sea Level (MSL): The Mean Sea Level is a value obtained by averaging hourly tide heights observed over a period of time, or the average water level that would exist in the absence of tides.

Median Income: The income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income that is

current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under Article 9.

Medical Lab: A facility offering diagnostic or pathological testing and analysis of blood, bodily fluids, pathological specimens, DNA sampling and analysis, and any other diagnostic test generally recognized in the healthcare industry.

Mental Health Crisis Center: A facility licensed by the State of Vermont Department of Mental Health and used exclusively by physicians, psychologists, social workers, and similar mental health care professionals and related administrative personnel for the counseling, care, and treatment of patients and clients. Such a facility may include both out-patient and short-term acute inpatient treatment.

Metal-Halide: A high intensity discharge lamp where the light is produced by radiation from metal-halide vapors.

Microbrewery: A facility for the production and packaging of beer or similar fermented malt beverages containing not less than one percent nor more than eight percent of alcohol by volume at 60 degrees fahrenheit (if such a beverage has an alcohol content of more than six percent and not more than eight percent and has a terminal specific gravity of less than 1.009, it shall be deemed a spirit and not a malt beverage), for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15, 000 barrels per year.

Mixed Use, Attached Dwelling: A building containing any combination of residential and/or non-residential uses.

Mixed Use, Building Site: A tract of land developed with any combination of residential and/or non-residential uses.

Mobile Home: Means a structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, cooling, and electrical systems contained in the structure, and is:

(A) transportable in one or more sections; and

(B) at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

(C) any structure that meets all the requirements of this subdivision except for the size requirements and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and standards established under Title 42 of the U.S. Code. 10 V.S.A. §6201(1).

Mobile Home Park: Means any parcel or contiguous lots of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two mobile homes. A parcel or contiguous lots owned by agricultural employers providing up to four mobile homes for use by full-time workers or employees, and a parcel or contiguous lots used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park. 10 V.S.A. §6201 (2), further clarified in the Housing Division Rules, Part 1, Mobile Home Parks, Section 2.10.

Moderate-income Household: A household having an income not exceeding one hundred ten percent (110%) of median income for the Burlington MSA, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. Section 1437 et seq.

Mounting Height: The height of a light fixture or lamp above the finished grade.

Multi-family, Attached Dwelling: Any building or part thereof containing three (3) or more dwelling units.

Municipal Development Plan (MDP) (a.k.a. Comprehensive Plan, Master Plan): A land development and policy plan developed and adopted by the city pursuant to 24 V.S.A. Chapter 117, Subchapter 5.

Museum: A building and site serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include, but is not limited to, the sale of goods to the public as gifts or for their own use and a café as accessory uses. Such a facility may also include interactive exhibits and programs for learning through hands-on experiences.

N

Neighborhood Commercial Uses: Non-residential establishments intended to serve or accommodate the needs of a limited geographic segment of a community or area. Such uses include: banks, places of worship, neighborhood convenience stores, day cares, cleaners & laundromats, fire & police stations, beauty salons and barbers, hardware and general merchandise; libraries, medical/dental offices, parks, pharmacies, post offices, cafes, schools, community centers, and health studios.

Neon Lighting: Low intensity gas filled tube lighting which, when subject to high voltage, becomes luminescent in colors characteristic of the particular gas used.

Nightclub: An establishment operated as a place of entertainment, characterized by any or all of the following as a principal use: (1) live, recorded, or televised entertainment, including but not limited to performance by magicians, musicians or comedians; (2) dancing, and/or (3) the dispensing alcoholic beverages for consumption on the premises.

Nonconformity: A nonconforming use, structure, lot, or parcel.

(a) **Nonconforming Lot or Parcel:** A lot or parcel that does not conform to the present bylaws covering dimensional requirements, including parking, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaw, including a lot or parcel improperly authorized as a result of error by the administrative officer or Development Review Board under the finality provisions of 24 V.S.A. §4472.

(b) **Nonconforming Structure:** A structure or part thereof not in conformance with the current zoning regulations covering building bulk, maximum height, and disposition on lot, area, or yards, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of such zoning ordinance, including a structure improperly authorized as a result of error by the administrative officer or Development Review Board under the finality provisions of 24 V.S.A. §4472.

(c) **Nonconforming Use:** An existing use of land or building that does not conform to the current use or density regulations for the district in which such use of land or building exists as set forth in Appendix A - Use Table. Such nonconforming uses are those in legal existence at the time of the adoption of the regulations to which they do not conform, including a use improperly authorized as a result of error by the administrative officer or Development Review Board under the finality provisions of 24 V.S.A. §4472. To the maximum extent possible, no entitlement shall be given to those that provide misinformation to City Officials. Permits issued as a result of such misinformation shall gain no legal entitlement regardless of duration of the permit or inaction.

Nursing Home: See definition of Convalescent Home.

O

Office, General: A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

Office, Medical/Dental: A facility used exclusively by physicians, dentists, chiropractors, psychologists and similar health care professionals for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

Official Map: A map adopted pursuant to 24 V.S.A. §4421 as amended which identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements, in order to provide the opportunity for the community to acquire land identified for public improvements prior to development for other use and to identify the locations of required public facilities for new subdivisions and other development under review by the municipality.

Opaque: A material that does not transmit light from an internal illumination source.

Open Air Market: A building or site used for selling or offering for sale at retail of locally-grown vegetables or produce, occurring in a pre-designated area, where there may be a collection of individual vendors or single vendor who have/has raised the vegetables or produce or have/has taken the same on consignment for retail sale. Also includes the incidental sale at retail of artisan-produced handicrafts, artwork, and baked goods.

Operation Center - Taxi/Bus: A facility for the housing of motor-driven buses or taxis, which may include maintenance of those vehicles.

Operation Center – Trucking: A facility for the operations and maintenance of a trucking business which may include maintenance of those vehicles.

Ordinary High Water Mark: The elevation of one hundred (100) feet above mean sea level.

Owner: Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, jointly or severally with others hold(s) legal or equitable title to any real property.

Owner Occupied: Where owner occupancy is required by this ordinance, owner occupancy shall mean occupancy of premises by an owner for at least 50% of the year.

P

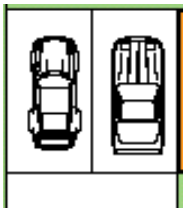
Park: Any area designated by the City as a park pursuant to Section 22-1 of the Code of Ordinances of the City of Burlington, Vermont.

Parking Garage/Structure: A structure containing parking facilities, below or above grade.

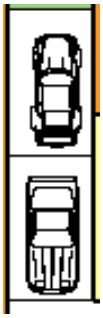
Parking, Surface/Lot: Parking facilities that are at grade and uncovered or not within a structure.

Parking, Stacked: The parking of more than two (2) cars in a parallel line, one behind the other.

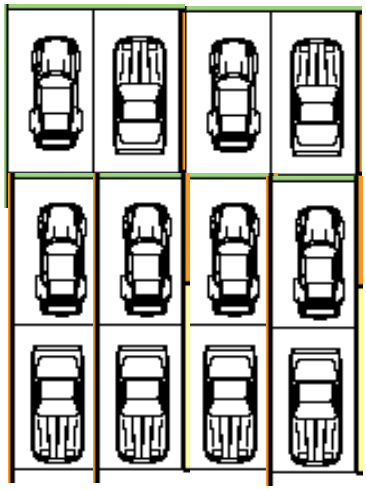
Parking, Tandem: The parking of up to two (2) cars, one behind the other.



Normal

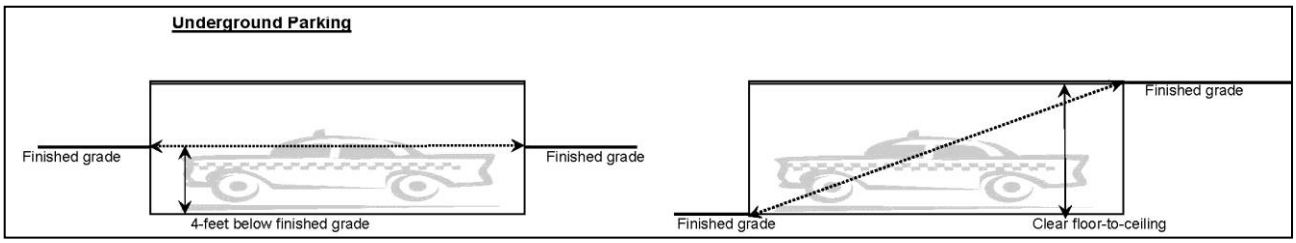


Tandem



Stacked

Parking, Underground: Parking spaces within a covered structure where either: fifty percent of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the building; or, the floor of the parking space is four (4) feet below the finished surface of the ground adjacent to the exterior walls of the building, whichever is greater.



Performing Arts Center/Theatre: An establishment primarily used for performing arts performances which may include permanent seating.

Performing Arts Studio: An establishment less than 5,000 square feet in size primarily used for acting, music, dance classes, rehearsal, or other instruction in the performing arts. Such an establishment has no permanent seating for performances.

Person: Any individual, corporation, business trust, estate trust, partnership, association, or any other entity or combination thereof.

Pharmacy: A retail business substantially devoted to the sale of pharmaceutical items, supplies, and equipment, including the preparation and dispensing of prescription drugs. Said business shall be licensed by the State of Vermont as such.

Photo Studio: An establishment used by a photographer for taking pictures of subjects.

Photography Lab: An establishment used for processing film and printing images from negatives.

Photometric Data: The quantitative measurement of the properties of light, especially luminous intensity.

Planned Unit Development: One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of

land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards, pursuant to the authority and limitations set forth in the comprehensive master plan and 24 V.S.A. §4417 as amended.

Planning Commission (PC) or Commission: The planning commission of the City of Burlington, Vermont, established pursuant to 24 V.S.A. Chapter 117, Subchapter 2.

Plat: A map prepared pursuant to the requirements of Article 10 and recorded in the City Land Records representing a tract of land showing the boundaries and location of individual properties and street.

Police Station: A public safety facility operated by a governmental agency, including administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of patrol vehicles.

Post Office: A facility that contains service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

(a) **Central Distribution Center:** A post office comprised of at least 5,000 square feet which includes centralized/regional processing facilities and storage for a fleet of vehicles.

(b) **Local:** A post office comprised of less than 5,000 square feet.

Printing: A facility for the reproduction of written or graphic materials on an order basis for individuals or businesses. May include a commercial printing operation involving a process such as printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing, binding or other similar processes.

(a) **Plant:** A facility that is greater than or equal to 5,000 square feet.

(b) **Shop:** A facility that is less than 5,000 square feet.

Public Transit Terminal: A facility or location where the principal use is the handling, receiving, and transfer of passenger traffic by various modes of travel, including, but not limited to aircraft, buses, taxis, public rail systems and ferries. (See also Operation Center - Taxi/Bus.)

Public Use: A use that is owned and operated by a public agency, or by a private/non-profit entity for use by the general public without unreasonable restriction.

Public Works Yard/Garage: A support facility housing administration, operations, maintenance, and storage for City departments with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

Q

Quasi-judicial: Having a partly but essentially judicial character by possession of the right to hold hearings on and conduct investigation into items dealing with rules and regulations and to make decisions in the general manner of courts.

R

Radio & Television Studio: An establishment for radio and television production and broadcasting.

Rail Equipment Storage & Repair: An area of land and associated structures for storage and repair of railroad equipment.

Record and Document Storage: Warehousing and storage of medical records and other documents.

Recording Studio: An establishment for recording and production of sounds and/or images, excluding broadcasting. The area for recording or practice shall be soundproof.

Recreational Facility - Indoor : An indoor facility, greater than 20,000 square feet in size, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, laser tag, paint ball, miniature golf or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool,

climbing wall, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities. Said establishment may or may not include membership. (See also Outdoor Recreational Facility, Health Club, and Health Studio)

Recreational Facility - Outdoor Commercial: An outdoor facility where tickets are sold or fees are collected from spectators and/or participants, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, field/ice hockey, soccer, lacrosse, baseball/softball, football or tennis. Such facility may also provide other regular organized or franchised events, snack bar, retail sales of related sports, health or fitness items, and other support facilities. (see also Indoor Recreational Facility and Outdoor Recreational Facility)

Recreational Facility - Outdoor: An outdoor facility, without seating for spectators, and providing accommodations for a variety of individual or organized sports, including but not limited to basketball, field/ice hockey, soccer, lacrosse, baseball/softball, football, tennis, or golf. Such facility may also provide a snack bar, restaurant, and other support facilities.. Said establishment may or may not include membership. (see also Indoor Recreational Facility and Outdoor Commercial Recreation)

Recreational pier: A structure built into or out over the water and used as a landing place for boats, promenade or entertainment/recreational area, including but not limited to fishing.

Recreational Vehicle: Any type of motorized vehicle used primarily for recreational purposes which have gross vehicle weight less than 10,000 pounds including but not limited to travel trailers, motor homes, ATV's, snowmobiles, etc. Recreational vehicles shall include any mobile structure designed for temporary occupancy, but shall exclude manufactured homes. (See Boats and Trucks)

Recreational Vehicle Sales – New & Used: The storage and display for sale of more than two recreational vehicles including those recreational purposes which have a gross vehicle weight more than or equal to 10,000 pounds.

Recycling Center: A building or enclosed area used for the collection, processing, sorting and resale of recyclable materials. For this use, processing means the preparation of material for shipment, or an end user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding,

cleaning, and remanufacturing. Processing facilities include storage and loading areas located entirely on the processing center site.

Rehabilitation: The act or process of physically restoring a property or structure through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural integrity.

Renewable Energy Resources: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

Rental Dwelling Unit: Any dwelling unit which is made available to a non-owner by another for compensation, pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied.

Research and Development Facility: A facility used primarily for applied and developmental research, where product testing is an integral part of the operation, and goods or products may be manufactured as necessary for testing, evaluation, and test marketing but does not involve the mass manufacture, fabrication, processing, or sale of products as a principal use.

Research Lab: A facility for scientific and/or academic research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential: Regularly used by its occupants as a permanent abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

Restaurant: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served for consumption primarily on premises; and where the service of alcoholic beverages is incidental to the consumption of food (less than fifty percent (50%) of the gross sales receipts from the business). (Also see Café, Caterers and Restaurant, Take-Out)

Restaurant, Take-Out: Any food service establishment subject to Vermont Health Regulations whose primary business is the sale of prepared food for consumption off the premises. (Also see Café, Caterers, and Restaurant)

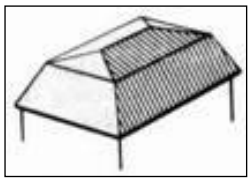
Retail: The selling of goods, wares, or merchandise directly to the consumer.

Road: See street.

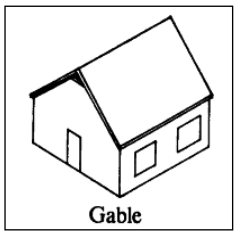
Roof: The uppermost covering and its supporting structures on the top of a building

(a) **Flat Roof**: is a roof with no pitch spanning across the uppermost portion. In cases where the upper portion of a mansard roof is flat (i.e. second empire), these shall be considered a flat roof.

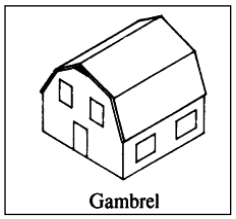
(b) **Gambrel Roof**: is a pitched roof with two slopes on either side, the lower slope having the steeper pitch, and having a gable at both ends.



(c) Hipped Roof: is a pitched roof comprising adjacent flat surfaces that slope upward from all sides of the perimeter of the building



(d) Mansard Roof: is a pitched roof having a double slope on all four sides, with the lower slope much steeper than the upper. The second empire mansard roof is a variation on the traditional mansard roof where the lower slopes are nearly perpendicular and the upper portion is flat or nearly flat.



(e) Pitched or Gable Roof: is a pitched roof with one slope on either side, having a gable at both ends. Also called gable roof.

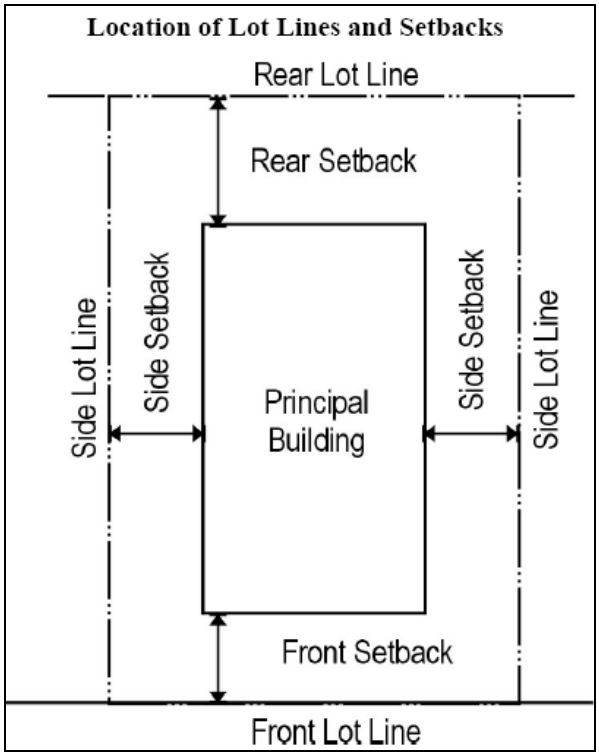
Rooming Unit: as defined by Chapter 18 of the Burlington Code of Ordinances. Examples include dormitories, fraternities, sororities, and boarding houses. This shall not include units for the temporary occupancy of patients or guests in a hospital, hotel, motel or convalescent facility. Any four (4) "rooming units" shall be considered a single housing unit in calculating density for the requirements of Article 4 and applying the housing replacement requirements of Article 9 Part 2.

S

Salon/Spa: An establishment where non-surgical cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation, including but not limited to day spas, tanning beds and chemical treatments.

Satellite Dish Antenna: A solid, open mesh, or bar configured device, often with the shape of a shallow dish, for the purpose of transmitting and/or receiving radio or electromagnetic waves between terrestrially and/or orbitally based uses. Satellite dish antennas larger than 24" in width or diameter are subject to regulation as specified in Article 5, Sec. 5.4.7. Any satellite dish equipment less than 24" in diameter in the aggregate on a single structure or lot shall not be considered a satellite dish antenna for the purposes of this ordinance, and is not subject to regulation as such.

Setback: The open, unobstructed area required to be provided between the furthermost projection of a building and the adjacent property line. (See also definition for Yard)



School: The academic space and accessory uses for the teaching of children or adults.

(a) **Primary:** elementary school, inclusive of grades K-8.

(b) **Secondary:** a high school and/or vocational center for attendance after elementary/primary school, granting a high school diploma for levels of education inclusive of grades 9-12.

(c) **Post-Secondary:** after high school, including colleges, community colleges, universities, or continuing education.

(d) **Trade or Professional:** a school that offers instruction in skilled trades.

(e) **Preschool**: a school providing educational services for children from 3 years of age until their admission to first grade and that may include kindergarten.

Screen(ing): A method of visually shielding one structure, space or use from another structure space or use with vegetation, fencing, walls, berms, or other natural or man-made landscape elements.

Senior Housing: See Housing, Senior.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, trade marks by which anything is made known, such as are used to identify or advertise an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public-street or right-of-way and used to attract attention. (See Article 7)

(a) **Business Sign:** An on-premises sign that directs attention to any primary business, commodity, service, industry or other activity, which is sold, offered or conducted on the premises.

(b) **Directly Illuminated Sign:** A sign, which emits light from a source within such sign directly or through transparent or translucent material, including but not, limited to, neon and exposed lamp signs.

(c) **Flashing Sign:** An illuminated sign on which an artificial light is in a non-stationary position or is not constant in intensity or color at all times during use.

(d) **Freestanding Sign:** A self-supporting sign resting on the ground or supported by means of poles or standards in the ground. The height of freestanding signs shall be measured from the official street grade to the top of the light standard or supporting standard, whichever is higher. Only one freestanding sign is permitted for each separate street frontage devoted to an establishment. A sign that stands without supporting elements, such as "sandwich sign" or interchangeable message board on wheels, is considered a freestanding sign.

(e) **Holiday Decorations:** Holiday decorations displayed for and during recognized federal, state, or religious holidays shall be exempted from the provisions of this article except where they interfere with traffic safety or in any way becomes a public safety hazard.

(f) **Indirectly Illuminated Sign:** A sign illuminated from an outside source so shielded that no direct rays are visible elsewhere on the lot. If such shielding device is defective, the sign shall be deemed to be a directly illuminated sign.

(g) **Kiosk:** Any structure erected in a public place with approval of the development review board for the specific purpose of displaying any sign to direct or inform pedestrians.

(h) **Non-complying Signs:** Any sign existing at the time of the passage of this section that does not conform in area, illumination, type, or height with the provisions herein.

(i) **Off-Premise Sign:** A sign which advertises or otherwise directs attention to any commodity or activity sold, offered or conducted elsewhere than on the premises upon which such sign is located.

(j) **Official Sign:** Any sign, including traffic signs and similar regulatory notices, erected by a duly constituted governmental body.

(k) **On-Premise Sign:** A sign directing attention to an activity on the same premise.

(l) **Parallel Sign:** A sign attached, painted, or otherwise mounted parallel to a wall or other vertical building surface. Parallel signs do not extend beyond the edge of any wall or other surface to which they are mounted and do not project more than eighteen (18) inches from the surface thereof.

(m) **Projecting Sign**: Any sign mounted to a wall or other vertical building surface other than a parallel sign. Signs connected to a canopy, awning, or marquee that project more than 18" are considered to be projecting signs. The content must be affixed flat to such canopy, marquee, or awning and is limited to announcing the name of the establishment or any on-premises show or event.

(n) **Roof Sign**: A sign erected on or above the roof or parapet of a building.

(o) **Temporary Sign:** A display, information sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other light material, with or without a structure frame, and intended for a limited period of display.

(p) **Vehicular Sign:** A sign affixed to any vehicle in such a manner that the display of such sign is a primary purpose of the vehicle. Any such sign shall be considered a freestanding sign.

(q) **Window Sign:** A sign affixed to the window or placed within twelve (12) inches of the glass area.

Site Plan: A scaled map of a lot or site that indicates all significant features including, but not limited to, site improvements, structures, boundaries, parking, drives, walkways, etc. in accordance with Article 3.

Site Plan Review: Review of the spatial layout and proposed content of a parcel of land illustrated on a site plan in accordance with the authority, limitations and procedures set forth in the municipal development plan, 24 V.S.A. §4416, and this ordinance, all as amended.

Small Lots: Any lot of record in existence as of April 26, 1973 not conforming to minimum lot size requirements of the zoning district in which it is located, if such lot is not less than four thousand (4,000) square feet in area with a minimum width or depth dimension of forty (40) feet.

Solar Access: The availability of direct sunlight to a property.

Solid Waste Facility (Incinerator/Landfill, Transfer Station): A facility regulated by the State of Vermont for the collection, treatment, or disposal of solid waste.

Sorority/Fraternity: A property used as group living quarters for students of a post-secondary educational institution who are members of a group organized for the purpose of sharing social, cultural, scholarly, or religious interests associated with and officially recognized and supervised by such an institution. A sorority/fraternity shall not be considered a "family" under the provisions of this ordinance.

Special Flood Hazard Area - *See Article 13, Part 2 below for all Flood Hazard Definitions***.**

Specimen Tree: Trees in excess of 30-inch caliper or that are determined to be over 100 years old by a certified arborist.

Stacking Area: An area for the temporary queuing of automobiles which serves a particular business, i.e.: drop offs, drive-up windows, drive through windows, etc.

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it and which is equal to or greater than 50% of the total perimeter of the building. If there is no floor above it, then the space between the floor and the ceiling above the floor of such story. Where the floor level of the first story is at least five feet below the adjoining finished grade, the space shall be considered a basement and not counted as a story.

Street or Alley: A public way as defined in Section 1-2 of the Code of Ordinances of the City of Burlington, or a private way devoted to public use. The word "street"

shall include the entire width between property lines of every way used for vehicular and pedestrian travel which has become public by authority of the law, and such ways on public places other than highways as the public is permitted to use for vehicular and pedestrian traffic. Streets shall be further classified as follows:

(a) **Arterials**: Limited access highways moving large volumes of traffic between major points within or outside of the city.

(b) **Major Collectors**: Interconnect the neighborhood of the city, other adjacent communities and the downtown to the neighborhoods.

(c) **Minor Collectors**: Gather traffic from local streets and feed it to major collectors.

(d) **Local Streets**: Streets used primarily for direct access to individual properties.

(e) **Alleys**: Ways which provide access to the back or side of properties abutting on a street and used primarily for providing services to such properties.

(f) **Cul-de-sac**: The turn around at the dead end of a local street.

Street Classification: Hierarchy of streets based on use and connectivity.

Streetscape: The physical elements that combine to create a public street and together define its character, including but not limited to, building frontages, landscaping, signs, and lighting.

Structure: Any construction, erection, assemblage or other combination of materials to form a construction that is stable, including but not limited to, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way, footings or a foundation attachment to the land and swimming pools necessitating pilings. The term “structure” shall be construed as if followed by the words: “or part thereof.”

Subdivision: A division of a parcel of land into two (2) or more lots, or other divisions. (Also see Lot Merger and Lot Line Adjustment.)

Substantial Rehabilitation: For the purposes of this ordinance any rehabilitation of an existing structure that requires an investment equal to at least fifty percent (50%) of the structure’s total replacement cost as approved by the City.

Surface parking: See Parking, Surface.

T

Tailor Shop: An establishment for the repair, alteration, and/or custom making of garments such as suits, coats, and dresses.

Temporary structures: A building or structure intended for removal or demolition within a prescribed time. See Article 5.

Tenant(s): Any person, group of individuals or family who occupies a single dwelling unit or commercial space pursuant to a lawful lease or rental agreement, whether oral or written, expressed or implied.

Transit Pass: Any pass, token, fare card, voucher, or similar item entitling a person to transportation to and from work or school on mass transit facilities and provided by an employer or institution consistent with Internal Revenue Code Section 132(f).

Trailer: A vehicle standing on wheels without an independent mode of power, designed to be towed or hauled by another vehicle, and used for short-term human occupancy, carrying materials, goods, or objects, or as a temporary office or recreational vehicle.

Tree Caliper: Caliper Measurement of the trunk taken six inches above ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above ground up until the tree is considered too large to transplant.

Tree Diameter: Diameter Measurement of the trunk shall be taken at 4.5 feet above ground also known as DBH (diameter Breast Height). This measurement is used to determine size for trees considered too large to transplant.

Tree Maintenance Plan: A plan prepared by a certified arborist that includes general and specific criteria for removing trees.

Truck: Motor vehicles including but not limited to recreational vehicles, tractors, buses, heavy equipment, and similar size vehicles which have gross vehicle weights greater than or equal to 10,000 pounds, but excluding aircraft or boats. (See Automobile)

U

Uplighting: Any light source that distributes illumination above a ninety (90) degree horizontal plane.

Urban Agriculture: The production of food in a city at a household, community, or commercial scale; it can involve a range of activities including the cultivation of plants, keeping animals, and aquaculture. For the purposes of this ordinance, the term "urban agriculture" pertains to all agricultural activities not included in "agriculture" as defined in this ordinance.

Usable Open Space: Any lot area(s) or portion thereof, which enhance utility and amenity by providing space for active or passive recreation including improvements such as: recreational facilities, walkways, plazas, tennis courts, bikeways, boardwalks, recreational piers, sitting walls, fountains, lawns, gardens, unprogrammed landscaped areas and works of art. Usable open space shall not include parking or drives.

V

Variance: A deviation from the physical dimensional requirements of this ordinance as may be granted by the development review board pursuant to Article 12, but not to include any land use or density changes.

Vehicle: Any automobile, truck, motorcycle, or trailer as defined in this ordinance. (See Automobile, Trucks, and Trailer)

Vehicle Salvage Yard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of machinery parts or vehicles not in running condition. Three or more unregistered vehicles are considered a salvage yard.

Very Low-income Household: A household having an income not exceeding fifty percent (50%) of median income for the Burlington MSA, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. Section 1437 et seq..

Vestigial Alley: An orphaned alley way, service way or similar lane originally platted for the purpose of providing rear yard access between lots, that is no longer in use for such purpose or is no longer a contiguous alleyway.

Veterinarian office: The office of one who practices medicine dealing with the prevention and treatment of diseases and injuries in animals.

Viewshed: The area within view from a defined observation point.

W

Waiver: Relief granted from a specific standard or requirement as authorized by this ordinance.

Warehouse: A building used for the storage of goods or materials. Warehouses may include the local, regional, national or international distribution of goods but do not include retail sale of goods.

Warehouse, Retail: A building used for the sale of goods, in bulk or as individual retail items, to the general public or to a membership.

Warehouse, Self-storage or Mini Warehouse: A building consisting of individual, self-contained units that are leased or owned for the storage of business supplies and household goods. Business goods are limited to those not associated with any office, retail or other business or commercial use within the self-storage warehouse facility.

Waterfront Pedestrian Corridor: An area along the lake shoreline dedicated for public access and circulation pursuant to the requirements of this ordinance.

Waiver Fee: A payment that is made for a person to "waive" or relinquish a specific right (e.g. the right to a hearing) with respect to an action of the court. For purposes of this ordinance, when a party is issued a municipal complaint ticket with a penalty fee and also a waiver fee, that party may consent to no hearing and instead pay only the designated "waiver" fee and send the payment with the ticket form in accordance with the procedures of the Judicial Bureau.

Wetlands: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Commonly referred to as swamps, marshes, or bogs. The methodology for delineating wetlands shall be those as established for the state of Vermont under the *Vermont Wetland Rules*.

Wetland Buffer Zone: A defined upland area contiguous to a wetland that serves as the transition between wetlands and uplands on the landscape, and may also perform important functions independent of their buffering capacity for the wetland. Also referred to as Wetland Conservation Zone pursuant to Article 4.

Wholesale Sales: The selling and/or distributing of merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. May include two (2) day sales to public not more than four (4) times per year.

Windmill: Any mechanism including blades, rotors, and other moving surfaces and supporting structures designed for the purpose of converting wind into mechanical or electrical power.

Window Well: The clear space created by a soil-retaining structure located immediately below a window whose sill height is lower than the adjacent ground level. The **window well** provides drainage around the window and in some cases, an emergency egress route from the structure.

Winery: A processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar non-distilled spirits. Such commercial use includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.

Wireless Telecommunication Facility: Any tower, antennae, panel or other device, and any accompanying structure, building, access road, service utility or equipment, that broadcasts or receives radio frequency waves carrying Wireless Telecommunication Services.

Wireless Telecommunication Service: Any commercial mobile service, common carrier wireless exchange service, cellular service, personal communication service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Wireless Telecommunication Service Provider: Any person or entity providing Wireless Telecommunication Services.

Wireless Telecommunication Tower: Any tower or other support structure, including antennae that will extend twenty (20) or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

Worship, Place of: A building, structure, or defined space used for religious devotion, including but not limited to churches, synagogues, and mosques.

Y

Yard: All open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between a building or group of buildings and a lot line.

(a) **Yard, front:** The area encompassing the full width of the lot and lying between the street line of the lot and the nearest line of the building.

(b) **Yard, rear:** The area extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. A rear yard has no street frontage, but may abut an alley.

(c) **Yard, side:** The area between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either, to the front or rear lot lines. A side yard has no street frontage, but may abut an alley.

Z

Zoning Permit: Document signed by the administrative officer authorizing land development pursuant to the requirements of this ordinance.

PART 2: FLOOD HAZARD DEFINITIONS

For the sole purpose of administering the Special Flood Hazard Area provisions of this ordinance pursuant to Sec. 4.5.4, the following terms and words are herein defined:

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Basement means any area of the building having its floor elevation subgrade (below ground level) on all sides.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood means (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a

current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "flood").

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures that substantially reduce or eliminate flood damage to any combination of real estate, improved real property, water or sanitary facilities, structures, and the contents of the structures.

Floodway, Regulatory in the City of Burlington (Floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Historic structure means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the

Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Lowest Floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones AE.

The SFHA is composed of the floodway and the flood fringe. The floodway is the stream channel and that portion of the adjacent floodplain that must remain open to permit passage of the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Floodwaters generally are deepest and swiftest in the floodway, and anything in this area is in the greatest danger during a flood. The remainder of the floodplain is called the flood fringe, where water may be shallower and slower.

The following figure illustrates the relationship between the floodway and flood fringe.

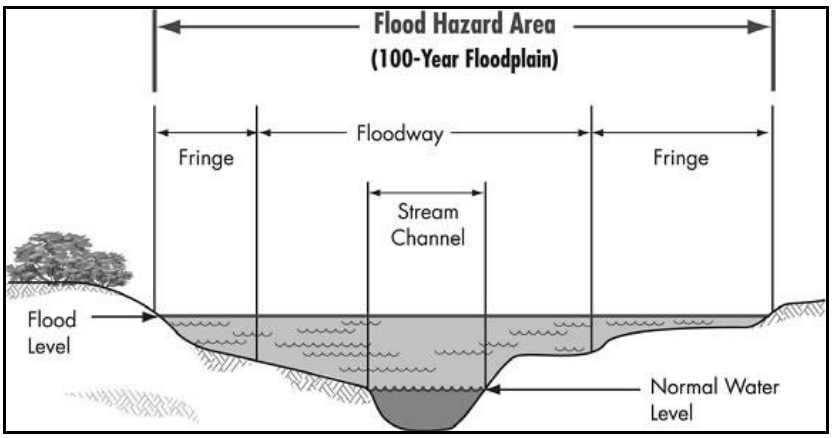


Illustration courtesy of the University of New Hampshire (UNH) Complex System Research Center (CSRC).

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means

the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

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Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
RESIDENTIAL USES	**UR**	**RCO - A[1]**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Single Detached Dwelling	N	N [1]	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N
Accessory Dwelling Unit *(See Art.5, Sec.5.4.5)*	N	N	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N		
Attached Dwellings - Duplex	N	N[1]	N	N	Y	CU [2]	Y	Y	N	N	N	N	N	Y [3]	N	Y	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N[1]	N	N	CU	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use[26]	N	N[1]	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	**UR**	**RCO – A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Assisted Living	N	N	N	N	CU	CU	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Bed and Breakfast[4, 6]	N	N	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
Boarding House [6] (4 persons or less)	N	N	N	N	CU	CU	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Boarding House [6] (5 persons or more)	N	N	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	CU	CU	CU	N	N
Community House (*See Sec.5.4.4*)	N	N	N	N	CU	CU	CU	CU	Y	Y	N	CU	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Dormitory[5]	N	N	N	N	CU	N	N	N	N	N	N	CU	CU	N[25]	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	Y	CU	N	Y	N	Y	Y	Y	N	N
Historic Inn (*See Sec.5.4.2*)	N	N	N	N	CU	CU	CU	CU	Y	Y	N	CU	CU	CU	Y	Y	N	N
Mobile Home Park	N	N	N	N	N	CU	CU	N	N	N	N	N	N	N	N	N	N	N
Sorority/Fraternity[5]	N	N	N	N	CU	N	N	N	N	N	N	CU	N	N	N	N	N	N
NON-RESIDENTIAL USES	**UR[21]**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Adult Day Care	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
Agricultural Use[20]	N	Y	Y	CU	Y	N	N	N	N	N	N	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	Y	Y	N	CU	CU	N	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU
Animal Grooming	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	CU	CU
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	CU	N	N	CU	CU	CU	CU	CU	Y	Y
Appliance Sales/Service	N	N	N	N	N	N	N	N	Y	Y	N	CU	Y	Y[24]	Y	Y	N	Y
Aquarium	N	N	CU	N	CU	N	N	N	Y	Y	(*See Sec.4.4.1(d) 2*)	CU	Y	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU[8, 13]	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	Y	Y	Y	Y	Y
Auction House	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	Y	Y	N	CU
Automobile Body Shop	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	Y	Y[14]	(*See Sec.4.4.1(d) 2*)	CU	Y	CU	Y	Y	N	Y
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N	N	N	N	N	CU[9, 12, 14]	CU[9, 12, 14]	CU[14]	N	Y
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	Y[10]	N	N	CU[10]	Y[10]	N	Y	Y	N	CU
Bakery - Retail	N	CU	N	N	N	N[22]	N[22]	CU[8, 13]	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Bakery - Wholesale	N	N	N	N	N	N	N	N	Y	Y	N	CU	CU	N	Y	Y	Y	Y
Bank, Credit Union	N	N	N	N	CU	N[22]	N[22]	N[22]	Y	Y	N	Y	Y	Y	Y	Y	N	N
Bar, Tavern	N	N	N	N	N	N	N	N	Y	Y	N	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N[22]	N[22]	CU[8, 13]	Y	Y	N	Y	Y	Y	Y	CU	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y
Billiard Parlor	N	N	N	N	N	N	N	N	Y	Y	N	CU	CU	CU	Y	CU	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	N	CU	(*See Sec.4.4.1(d) 2*)	CU	CU	N	CU	CU	N	Y
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	N	Y	Y	N	Y
Boat Storage	N	N	CU	N	N	N	N	N	N	CU	N	CU	CU	N	CU	CU	N	Y
Bowling Alley	N	N	N	N	N	N	N	N	CU	N	N	N	CU	CU	Y	Y	N	N
Building Material Sales	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[10]	Y	N	Y
Café	N	CU[17]	CU	N	CU	N[22]	N[22]	CU[8, 13]	Y	Y	(*See Sec.4.4.1(d) 2*)	CU	Y	Y	Y	Y	CU	CU
Camp Ground	N	Y	Y	N	N	N	N	N	N	N	(*See Sec.4.4.1(d) 2*)	N	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	Y	N	CU
Cemetery	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU[8]	Y	Y	N	Y	Y	CU[14]	Y	N	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	Y	N	N	Y	Y	CU	CU	N	N	N
Community Center	N	N	CU	N	CU	CU[13]	CU[13]	Y[13]	Y	Y	N	Y	Y	Y	Y	Y	N	CU
Community Garden	N	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Conference Center	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[10]	N	Y
Convenience Store (*See Sec.5.4.3*)	N	N	N	N	N	N	N	CU[8, 12]	Y	Y[12]	N	CU	Y	Y[12]	Y	Y	N	Y
Convention Center	N	N	N	N	N	N	N	N	CU	CU	N	CU	CU	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	Y	Y	N	Y	Y	N	N	N	N	N
Crematory	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
Daycare - Large (Over 20 children)	N	N	N	N	CU	CU[13]	CU[13]	CU[13]	Y	Y	N	CU	CU	Y	Y	Y	N	CU[17]
Daycare - Small (7-20 children) (*See Sec.5.4.1*)	N	CU[8]	CU[8]	CU[8]	CU	CU[13]	CU[13]	CU[13]	Y	Y	N	CU	CU	Y	Y	Y	CU	CU[17]

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Daycare - Home (6 children or less)	N	N	N	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y
Distribution Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU
Dry Cleaning Plant	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU
Dry Cleaning Service	N	N	N	N	CU	N[22]	N[22]	N[22]	Y	Y[14]	N	Y	Y	Y[24]	Y	Y	N	CU
Film Studio	N	N	N	N	Y	N	N	N	Y	Y	N	Y	Y	N	CU	Y	N	CU
Fire Station	N	N	Y	N	Y	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Food Processing	N	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU	CU	CU	Y
Fuel Service Station[9]	N	N	N	N	N	N	N	N	Y[11]	N	N	CU[11]	CU[11]	CU[11]	Y[11]	Y	N	N
Funeral Home	N	N	N	N	N	CU[7]	CU[7]	CU[7, 8]	CU	N	N	N	N	CU	Y	Y	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	CU[14]	CU[14]	N	CU[14]	CU[14]	CU[24]	Y	Y	Y	Y
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N[22]	N[22]	N[22]	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	Y	Y	Y	N	Y
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	Y	CU	(*See Sec.4.4.1(d) 2*)	CU	CU	N	CU[18]	CU	N	CU[17]
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU[8]	Y	Y	N	Y	Y	Y	Y	Y	CU	CU[28]
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	Y	N	N	CU	CU	N	Y	Y	N	CU[28]
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU[8]	Y	Y	N	CU	CU	CU	Y	Y	N	CU
Health Studio	N	N	N	N	Y	N[22]	N[22]	CU[8]	Y	Y	N	Y	Y	Y	Y	Y	N	Y
Hospitals	N	N	N	N	CU	N	N	CU	CU	N	N	CU	CU	N	N	N	N	N
Hostel	N	N	N	N	Y	N	N	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
Hotel, Motel	N	N	N	N	CU	N	N	N	Y	Y	(*See Sec.4.4.1(d) 2*)	CU	CU	N	Y	N	N	N
Laundromat	N	N	N	N	CU	N[22]	N[22]	CU[8, 13]	Y	Y[13]	N	Y[13]	Y[13]	Y[13]	Y	Y	N	Y
Library	N	N	N	N	Y	CU	CU	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU[10]	Y	N	Y
Machine/Woodworking Shop	N	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU	CU	CU	Y
Manufacturing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU	Y
Manufacturing - Tour Oriented	N	N	N	N	N	N	N	N	N	CU	N	N	CU	N	N	CU	CU	CU
Marina	N	N	Y	N	N	N	N	N	N	Y	(*See Sec.4.4.1(d) 2*)	N	N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	CU	Y	Y	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (*See §5.4.11*)	N	N	N	N	N	N	N	N	N	N	N
Micro-Brewery/Winery	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	CU	Y	Y	CU	Y[19]

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Museum–Small < 10,000 sqft	N	CU	CU	CU	Y	CU[13]	CU[13]	CU[8,13]	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	CU	Y[23]
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	CU	CU	(See Sec.4.4.1(d) 2)	CU	CU	N	CU	CU	CU	CU[23]
Office - General	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	CU	Y
Office - Medical, Dental	N	N	N	N	CU	N[22]	N[22]	N[22]	Y	Y	N	Y	Y	Y	Y	Y	N	Y
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	Y	Y	Y	Y	Y
Operations Center – Taxi/Bus[9]	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU[11]	N	Y
Operations Center - Trucking[9]	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[11]	CU[11]	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	Y	Y	Y	CU	CU
Parking Garage [9]	N	N	N	N	Y	N	N	CU	Y	Y	N	Y	Y	CU	Y	N	N	CU
Parking Lot [9]	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	Y	Y	(*See Sec.4.4.1(d) 2*)	CU	CU	CU	Y	N	N	CU[27]
Performing Arts Studio	N	N	N	N	Y	N	N	CU[13]	Y	Y	(*See Sec.4.4.1(d) 2*)	CU	CU	CU	CU	CU	N	Y
Pet Store[10]	N	N	N	N	N	N	N	N	CU	CU	N	CU	CU	CU	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N[22]	N[22]	N[22]	Y	Y	N	Y	Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N[22]	N[22]	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y
Photography Lab	N	N	N	N	N	N	N	N	Y	N	N	CU	CU	CU	Y	Y	CU	Y
Police Station - Central	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y	Y	N	Y
Post Office - Local	N	N	N	N	Y	N[22]	N[22]	N[22]	Y	Y	N	Y	Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	N	Y
Printing Shop	N	N	N	N	CU	N[22]	N[22]	N	Y	N	N	CU	CU	CU	Y	Y	N	Y
Public Transit Terminal	N	N	N	N	Y	N	N	N	Y	Y	(*See Sec.4.4.1(d) 2*)	CU	CU	N	CU	CU	CU	Y
Public Works Yard/Garage[9]	N	N	N	N	CU[11]	N	N	N	N	N	N	N	N	N	CU[11]	Y[11]	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	Y	Y	N	CU	Y	N	Y	Y	N	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	N	N	(*See Sec.4.4.1(d) 2*)	N	N	N	N	N	CU	CU
Recording Studio	N	N	N	N	N	N	N	CU [8]	Y	Y	N	Y	Y	CU	CU	Y	N	Y
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	Y	CU	(*See Sec.4.4.1(d) 2*)	CU	CU	N	Y	CU	N	CU
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	N	CU	(*See Sec.4.4.1(d) 2*)	N	N	N	N	CU	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	N	N	(*See Sec.4.4.1(d) 2*)	N	N	N	Y	Y	N	N
Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU	N	Y

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
Recycling Center – Large [10] (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small [10] (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	CU	CU	(*See Sec.4.4.1(d) 2*)	CU	CU	N	CU	CU	CU	Y
Restaurant	N	N	N	N	N	N[22]	N[22]	CU [8, 13]	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	Y[13]	Y	Y	N	N
Restaurant – Take Out	N	N	N	N	CU[13]	N[22]	N[22]	N	Y	Y	(*See Sec.4.4.1(d) 2*)	Y	Y	Y[13]	Y	Y	N	Y[13]
Salon/Spa	N	N	N	N	CU	N[22]	N[22]	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	CU	N	N	CU	CU	CU	CU	CU	N	N
School - Primary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	CU	N	N	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N[22]	N[22]	CU [8]	Y	Y	N	Y	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	N	N	(*See Sec.4.4.1(d) 2*)	N	N	N	N	Y[15]	Y	Y
Warehouse, Retail[9]	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU[15]	CU[15]	CU	CU
Warehouse, Self-Storage[9]	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[15]	N	CU
Wholesale Sales[9]	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	Y [15]	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	Y	N	N	Y	Y	Y	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycares in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	**Zoning District**
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Appendix A-Use Table – All Zoning Districts

21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
28. Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

Appendix B - Dimensional Standards – All Zoning Districts[1]

District	Density/ Intensity	Lot Coverage (%)	Building Height (feet)	Front Setback[1] (feet)	Side Setbacks (% or feet)	Rear Setback (% or feet)	Lake & River Setback (feet)	Lot Size (sqft)	Street Frontage (feet)
Mixed- Use									
Downtown	Max: FAR 5.5 *(FAR 8.5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 65' *(105' with bonuses)*	Min: 12' from curb[3]	Min: 0'	Min: 0'	NA	NA	NA
• Church Street Marketplace			Min: 30' & 3 story Max: 38' w/in 100' of centerline						
Downtown Transition									
• North of Buell	Max: FAR 4 *(FAR 5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 45' *(55' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
• Frontage on south side of Main St. west of S. Winooski Ave	Max: FAR 5.5 *(FAR 8.5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 65' *(105' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
• South of Buell	Max: FAR 4 *(FAR 5.5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 45' *(65' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
• South of Maple	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 35' *(45' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
Downtown Waterfront									
A. North of Pearl, east of railroad	Max: FAR 4 *(FAR 5.5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 45' *(65' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
B. Pearl to Bank east of Lake St.	Max: FAR 4 *(FAR 5.5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 45' *(65' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
C. Pearl to Bank west of Lake St.	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 35'	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
D. Bank to College east of Lake St.	Max: FAR 3 *(FAR 5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 35' *(55' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
E. Bank to College west of Lake St.	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 35'	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
F. South of College	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 35'	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
Downtown Waterfront – Public Trust									

Appendix B - Dimensional Standards – All Zoning Districts[1]

District	Density/ Intensity	Lot Coverage (%)	Building Height (feet)	Front Setback[1] (feet)	Side Setbacks (% or feet)	Rear Setback (% or feet)	Lake & River Setback (feet)	Lot Size (sqft)	Street Frontage (feet)
A. North of Pearl, west of railroad	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 100%	Max: 35'	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
B. 200' from water	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 100%	Max: 35'	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	Min: 50'	NA	NA
Battery Street Transition	Max: FAR 3 *(FAR 4.5 w/ bonus)*	Max: 100%	Min: 30' & 3 story Max: 35' *(55' with bonuses)*	Min: 12' from curb[3]	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
NAC	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 80%	Max: 35' *(45' with bonuses)*	Min: 0'	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
NAC-Riverside Corridor	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 80%	Min: 20' & 2 story Max: 35' *(45' with bonuses)*	Min: 0'	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
NMU	Max: FAR 2 *(FAR 3 w/ bonus)*	Max: 80%	Min: 20' & 2 story Max: 35' *(45' with bonuses)*	Min: 0'	Min: 0' (Res. Dist setback: min of 15')	Min: 0' (Res. Dist setback: min of 15')	NA	NA	NA
Enterprise									
Agricultural Processing & Energy	Max: FAR 0.75	Max: 60%	Max: 45'	Min: 10	Min: 10'	Min: 10'	Min: 100'	NA	NA
Light Manufacturing	Max: FAR 2	Max: 80%	Max: 45'	Min: 5'	Min: 0' (Res. Dist setback: 25' min)	Min: 10% (Res. Dist setback: 25' min)	Min: 100'	NA	NA
Institutional									
Institutional Campus	20 du/acre *(24 du/acre with inclusionary requirement)*	Max: 40% *(48% w/ inclusionary requirement)*	Max: 35' or height of existing buildings per Sec. 5.2.6(b)1	Min: 15'	10% of lot width Min: 5-feet Max: 20-feet	25% of lot depth Min: 20-feet Max: 75-feet	NA	NA	NA
FAHC Medical Center Core Overlay *see Sec. 4.5.2(c)*	20 du/acre *(24 du/acre w/ inclusionary requirement)* NA for dormitories, rooming houses and non-residential uses per Sec. 4.5.2(c)6.	Max: 60-65%	Max: 540' above MSL or per Sec. 4.5.2(c)5	Min: 15'	NA	NA	NA	NA	NA

Appendix B - Dimensional Standards – All Zoning Districts[1]

District	Density/ Intensity	Lot Coverage (%)	Building Height (feet)	Front Setback[1] (feet)	Side Setbacks (% or feet)	Rear Setback (% or feet)	Lake & River Setback (feet)	Lot Size (sqft)	Street Frontage (feet)
UVM Central Campus Core Overlay *see Sec. 4.5.2(d)*	20 du/acre *(24 du/acre w/ inclusionary requirement)* NA for dormitories, rooming houses and non-residential uses per Sec. 4.5.2(d)6.	Max: 65-70%	Max: 140' or per Sec. 4.5.2(d)5	Min: 15'	NA	NA	NA	NA	NA
UVM Trinity Campus Core Overlay *see Sec. 4.5.2(e)*	20 du/acre *(24 du/acre w/ inclusionary requirement)*	Max: 40% *(48% w/ inclusionary requirement)*	Max: 35' or per Sec. 4.5.2(e) and Sec. 5.2.6(b)1.not to exceed 55'	Min: 115' from Colchester Ave. (Structures <200sqft are exempt.)	Min: 5-feet Max: 20-feet applicable only along perimeter	Min: 20-feet Max: 75-feet applicable only along perimeter	NA	NA	NA
UVM South of Main St. Campus Core Overlay *see Sec. 4.5.2(f)*	20 du/acre *(24 du/acre w/ inclusionary requirement)* NA for dormitories, rooming houses and non-residential uses per Sec. 4.5.2(f)6.	Max: 60%	Max: 80' or per Sec. 4.5.2(f)5	Existing building line as of January 1, 2008 along the South Prospect Street and Main Street frontages.	NA	NA	NA	NA	NA
Champlain College Core Overlay *see Sec. 4.5.2(g)*	Max: FAR 1.0-1.1 per Sec. 4.5.2(g)4	Max: 60%	Max: 35' or height of existing buildings per Sec. 5.2.6(b)1	Existing building line as of January 1, 1994 along the South Willard Street frontage south of Maple Street.	10% of lot width Min: 5-feet Max: 20-feet or per Sec. 4.5.2(g)2	25% of lot depth Min: 20-feet Max: 75-feet or per Sec. 4.5.2(g)2	NA	NA	NA
RCO									
Recreation / Greenspace	Max: 0	Max: 5%	Max: 35'	Min: 15'	Min: 10%	Min: 25%	Min: 100'	NA	NA
Conservation	Max: 0	Max: 5%	Max: 25'	Min: 15'	Min: 10%	Min: 25%	Min: 100'	NA	NA
Agriculture	Max: 0	Max: 5%	Max: 35'	Min: 15'	Min: 10%	Min: 25%	Min: 100'	NA	NA
Urban Reserve									
Urban Reserve	Max: 0	Max: 5%	Max: 35'	Min: 15'	Min: 10%	Min: 25%	Min: 100'	NA	NA

Appendix B - Dimensional Standards – All Zoning Districts[1]

District	Density/ Intensity	Lot Coverage (%)	Building Height (feet)	Front Setback[1] (feet)	Side Setbacks (% or feet)	Rear Setback (% or feet)	Lake & River Setback (feet)	Lot Size (sqft)	Street Frontage (feet)
Residential	(du/ac)								
RH • RH Density Overlay: S. Union to Church • RH Density Overlay: Church to Pine	Max: 40 du/ac *(80 with bonus)*	Max: 80% *(92% with bonus)*	Max: 35' *(45-ft with bonus)* Max: 35' *(68-ft with bonus)* Max: 35' *(55-ft with bonus)*	Max/Min: +/- 5-ft of average of 2 adjoining properties on both sides	Min: 10% or 5' (Max required no more than 25')	Min: 25% or 20' (Max required no more than 75')	NA	NA	NA
RM	Max: 20 du/ac *(40 with bonus)*	Max: 40% *(60% with bonus)*	Max: 35'	Max/Min: +/- 5-ft of average of 2 adjoining properties on both sides	Min: 10% or 5' (Max required no more than 25')	Min: 25% or 20' (Max required no more than 75')	NA	NA	Min: 30'
RM-W	Max: 20 du/ac *(40 with bonus)*	Max: 60% *(72% with bonus)*	Max: 35' w/in 200' of water and above 180' elevation Max: 60' beyond 200' of water and below 180' elevation	Max/Min: +/- 5-ft of average of 2 adjoining properties on both sides	Min: 10% or 5' (Max required no more than 25')	Min: 25% or 20' (Max required no more than 75')	Min: 75'	NA	Min: 30'
RL	Max: 7 du/ac *(20 with bonus)*	Max: 35% *(50% with bonus)*	Max: 35'	Max/Min: +/- 5-ft of average of 2 adjoining properties on both sides	Min: 10% or 5' (Max required no more than 25')	Min: 25% or 20' (Max required no more than 75')	Min: 75'	Min: 6,000 (10,000 Duplex)	Min: 60'
RL-W	Max: 7 du/ac *(20 with bonus)*	Max: 35% *(50% with bonus)*	Max: 35'	Max/Min: +/- 5-ft of average of 2 adjoining properties on both sides	Min: 10% or 5' (Max required no more than 25')	Min: 25% or 20' (Max required no more than 75')	Min: 75'	Min: 6,000 (10,000 Duplex)	Min: 60'

1. Any discrepancy between the dimensional standards found in this table and the dimensional standards found in Article 4 shall be made in favor of those standards found in Article 4. Measurement of and exceptions to coverage, setback and height standards are found in Article 5.
2. Except in the Institutional District, use the median front setback of principal structures on lots having the same street frontage within the same block of the subject property.
3. All structures shall be setback 12-feet from the curb on a public street except as otherwise allowed by the DRB for development on Center Street, on both sides of Pine Street between Cherry and Pearl Streets, on the east side of Pine Street between Bank and Main Streets, on the west side of Pine Street between College and Main Streets and on South Winooski Avenue between Bank and College Streets, all structures shall be setback at least twelve feet from the curb on a public street. The DRB may order a wider setback in any case under its review if it should determine that the application cannot be approved under applicable criteria without such additional setback.