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:

(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.

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.*

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. Temporary Structures or Uses as per Sec. 5.1.2 (f).

13. 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.
14. Family day care homes.
15. Per Act 45: Sec. 15c. 24 V.S.A. § 4413(g), notwithstanding any provision of law to the contrary, nothing in this ordinance shall prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.

(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 planBTV: Downtown Code (Art. 14), 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 development involving the construction of five (5) or more dwelling units and/or ten thousand (10,000) s.f. or more of gross floor area of non-residential development 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. Requirements for all applications subject to the planBTV: Downtown Code can be found under Sec. 14.7.1.

(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 or the planBTV: Downtown Code under Sec. 14.7.1 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 or the planBTV: Downtown Code Sec. 14.7.1 as applicable. 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;
- Planned Development Review - Article 11; and,
- The planBTV: Downtown Code – Article 14.

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.

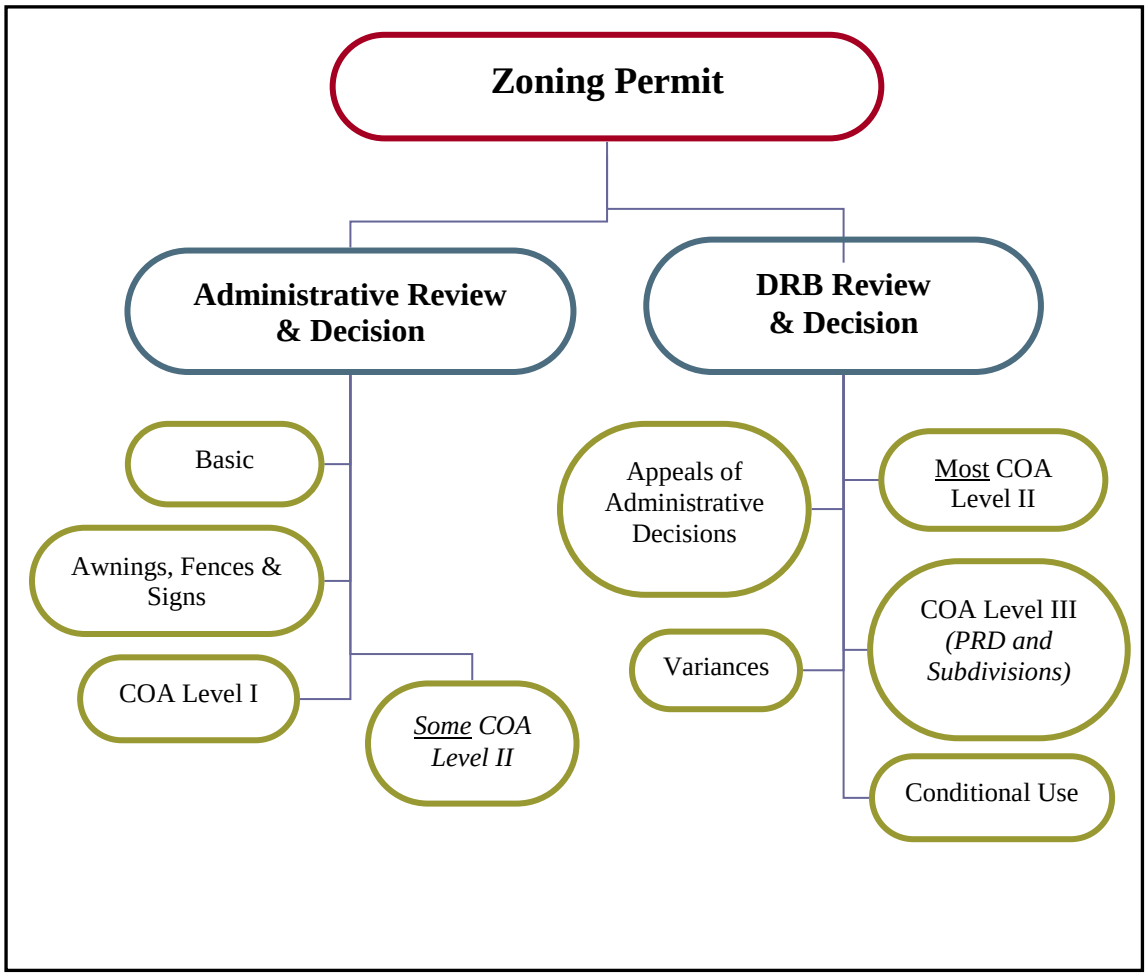
Should the administrative officer fail to take any such action, a permit shall be deemed issued on the 31st day pursuant to 24 VSA 4448(d). Modifications to a pending application by an applicant shall restart any applicable time limits, commencing upon the modification date.

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 those applicable applications subject to the planBTV: Downtown Code under Sec. 14.7.1 e) i and all of the following types of applications:

1. Basic;
2. Awning;
3. Fence;
4. Sign;
5. COA Level I; and,

6. Lot Line Adjustment.

In addition, the administrative officer is hereby authorized to undertake the review and approval of certain COA Level II applications subject to the following thresholds and conditions:

7. Granting of parking waivers for up to ten spaces in the NMU zones where there is a change of use from one non-residential use to another wholly within an existing building;
8. Waivers for residential parking in tandem situations where there is one space behind one other, usually in a driveway;
9. Additions to single family houses in a design control district located 200-feet or more from the lakeshore and that are 50% or less of the existing gross floor area of the principal structure;
10. Simple renovations in design control districts such as door and window changes, re-siding, re-roofing, enclosing porches, adding a shed or garage, and additions no greater than 500 square feet in size that otherwise comply with all applicable dimensional standards of Art. 4 and the development review criteria of Art. 6;
11. Compliance with conditions of approval as specified in a written decision of the DRB; and,
12. Minor amendments to development applications previously approved by the DRB where the proposed amendment otherwise qualifies for administrative review as a COA Level I application or under the planBTV: Downtown Code under Sec. 14.7.1 e) i and will not substantively alter any findings of fact or DRB decision and related conditions of approval.

(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. 3.2.10 Performance 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. 3.2.11 Zoning 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 Offsite Improvements

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.

All applications subject to the planBTV: Downtown Code under Art. 14 shall be exempt from review under this section, and the development review principles and standards contained in Article 6 - Development Review Standards, and instead shall be subject to the requirements of Article 14.

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 regulations are enacted to provide for a more detailed consideration of development proposals which may present a greater impact on the community, based on either the nature of the proposed use and/or the overall scale of the proposed development, in order to ensure that

(b) the anticipated impact of such developments on the city's natural and physical character, services and infrastructure are mitigated.

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:

Major Impact Review shall be required for the approval of all development involving any one or more of the following:

	Zoning Districts				
	Downtown Mixed Use and Form Districts	**Neighborhood Mixed Use, Institutional, Enterprise,**	**Residential-Medium Density, Residential – High Density**	**Residential-Low Density**	**RCO-A, RCO-C, RCO-RG, UR**
Dwelling Units	Creation of fifty (50) or more dwelling units	Creation of twenty-five (25) or more dwelling units	Creation of ten (10) or more dwelling units	Creation of five (5) or more dwelling units	NA
Land Subdivision	NA	NA	Creation of ten (10) or more lots;	Creation of five (5) or more lots	NA
Non-residential or Mixed Use Development	A development footprint[1] of fifty thousand (50,000) s.f. or more, or the creation of one hundred thousand (100,000) s.f. or more of gross floor area.	A development footprint[1] of twenty thousand (20,000) s.f. or more, or the creation of forty thousand (40,000) s.f. or more of gross floor area.	A development footprint[1] of eight thousand (8,000) s.f. or more, or the creation of fifteen thousand (15,000) s.f. or more of gross floor area.	A development footprint[1] of five thousand (5,000) s.f. or more, or the creation of ten thousand (10,000) s.f. or more of gross floor area.	Creation of five thousand (5,000) s.f. or more of gross floor area[2]

[1] Development Footprint: total area of impervious coverage – buildings and parking.

[2] Farm structures are exempt per 10 VSA 6001.

In addition, Major Impact Review shall also be required for multiple projects undertaken by the same applicant or responsible party within any consecutive twelve (12) month period on the same or adjacent property that in the aggregate equal or exceed the above criteria.

Sec. 3.5.3 Exemptions

Neither Conditional Use nor Major Impact Review shall be required for 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;

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

(e) Projects where the scope and authority of municipal regulation is limited by statute pursuant to 24 VSA 4413.

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.