

## Burlington Planning Commission

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### **PUBLIC HEARING NOTICE** ***Burlington Comprehensive Development Ordinance*** **ZA-18-07 Conditional Use Exemptions** **ZA-18-08 Form District 5 Boundaries**

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, June 12, 2018 beginning at 6:45pm** in Conference Room 12, City Hall, 149 Church Street, Burlington, VT.

Pursuant to the requirements of 24 V.S.A. §4444(b):

**Statement of purpose:** This amendment is proposed to the Burlington CDO as follows:

- **ZA-18-07:** The purpose of this proposed amendment is to eliminate the Conditional Use exemption from Section 3.5.3 Exemptions, which was added to this section in 2015. This is to ensure that change of use and rehabilitation of structures involving conditional uses will still be subject to the closer review scrutiny per the conditional use standards of Section 3.5.6.
- **ZA-18-08:** The purpose of this proposed amendment is to modify the boundaries of Form District 5 to include additional properties located along the boundary of the current district. Properties proposed for inclusion are currently zoned Residential High Density or Residential Medium Density, and have been evaluated for their current and future potential use and intensity. These have been recommended for inclusion in Form District 5 in order to encourage the appropriate type and intensity of future infill or redevelopment, and to enable greater flexibility for expansion or reuse of existing uses and structures by reducing non-conformities.

**Geographic areas affected:** the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-18-07:** The proposed amendment applies to all areas of the City.
- **ZA-18-08:** This proposed amendment applies to 29 properties, currently zoned Residential High Density or Residential Medium Density along the border of the Form District 5 boundary along the perimeters of downtown. A map of specific properties recommended for rezoning is available at <https://www.burlingtonvt.gov/PZ/CDO/Proposed-Amendments-Before-the-Planning-Commission>

**List of section headings affected:**

- **ZA-18-07:** This amendment affects *Sec 3.5.2 Exemptions*.

- **ZA-18-08:** This amendment affects *Map 4.4.1-1 Downtown Mixed Use Districts; Map 4.4.5-1 Residential Zoning Districts; Map 8.1.3-1 Parking Districts; Article 14- Map 1 Regulating Plan, Map 2 Specific Height Areas, and Map 3 Shopfronts Required; and Section 14.2.6 Special Requirements.*

**The full text** of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at [www.burlingtonvt.gov/pz](http://www.burlingtonvt.gov/pz).

## Department of Planning and Zoning

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### **Burlington Planning Commission Report Municipal Bylaw Amendment ZA-18-XX Conditional Use Exemptions**

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

#### ***Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:***

The purpose of this proposed amendment is to eliminate the Conditional Use exemption from Section 3.5.3 Exemptions, which was added to this section in 2015. This is to ensure that change of use and rehabilitation of structures involving conditional uses will still be subject to the closer review scrutiny per the conditional use standards of Section 3.5.6.

#### ***Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:***

The proposed amendment has no direct impact on the goals and policies contained in the *Municipal Development Plan* regarding safe and affordable housing.

#### ***Compatibility with the proposed future land uses and densities of the municipal development plan:***

The proposed amendment has no direct impact on the goals and policies contained in the *Municipal Development Plan* regarding land use and density. Rather, the amendment clarifies the intent of the 2015 amendments to Section 3.5.3, which was to exempt projects involving substantial building renovation from Major Impact review, so long as the floor area or structural capacity of the building did not expand. This amendment ensures that those uses which the community has identified as warranting additional consideration for neighborhood character, traffic generation, impact on city services and potential nuisances remains whether the use is proposed in an existing building or not.

#### ***Implementation of specific proposals for planned community facilities:***

The proposed amendment has no impact on planned community facilities.

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Anita Wade, Zoning Clerk



**TO:** Planning Commission Ordinance Committee  
**FROM:** Scott Gustin  
**DATE:** February 1, 2018  
**RE:** Sec. 5.3.5; Exemptions

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Zoning amendment ZA-15-02, *Conditional Use, Inclusionary & Replacement House, and Planned Unit Development* did much to clean up disparate conditional use triggers in the Comprehensive Development Ordinance. The amendment had the intended effect of limiting conditional use review largely to those uses noted as “conditional use” in Appendix A – Use Table. That amendment also added “conditional use” to the existing “major impact” exemptions of Sec. 5.3.5. Doing so has had the unintended effect of exempting many conditional use applications from conditional use review. Item (b) is particularly broad reaching. As presently worded, any conditional use – even one involving extensive building renovations – may replace another use and be exempt from conditional use review. This result is not the intent of this exemption. This exemption was originally intended to exempt a project involving substantial building renovation from “major impact” review so long as the floor area or structural capacity of the building did not expand. Its application to conditional uses as well has the effect of exempting many conditional uses going into existing buildings.

Conditional uses are intentionally differentiated from permitted uses in the CDO. Uses noted as conditional are those that warrant closer scrutiny per the conditional use standards of 3.5.6. Consideration is given to character of the neighborhood, traffic generation, impacts on city services, and potential nuisance impacts. These considerations remain pertinent to the conditional use whether proposed in an existing building or not.

Staff recommends eliminating “conditional use” from Sec. 3.5.3. Deleted language is ~~crossed out~~, and new language is underlined in red.

### **Sec. 3.5.3 Exemptions**

~~Neither Conditional Use nor Major Impact Review shall~~ **not** be required for applications involving one or more of the following:

- (a) Temporary structures that do not otherwise involve a conditional use;
- (b) ~~Substantial~~ **R**ehabilitation 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.