



MEMORANDUM

TO: City of Burlington Planning Commission Chair
Town of Shelburne Planning Commission Chair
Town of Colchester Planning Commission Chair
Town of Williston Planning Commission Chair
City of Winooski Planning Commission Chair
Town of Essex Planning Commission Chair
Village of Essex Junction Planning Commission Chair
Charlie Baker, Chittenden County Regional Planning Commission
Wendy Tudor, VT Department of Housing and Community Affairs

FROM: Paul Conner, Director of Planning & Zoning

SUBJECT: Proposed Land Development Regulation Amendments

DATE: December 12, 2012

Enclosed please find a series of proposed amendments to the City of South Burlington's Land Development Regulations, as well as a report from the Planning Commission, as required under Chapter 117. The Planning Commission will hold a public hearing on these amendments on Tuesday, January 8th, 2013 at 7:30 PM in the City Hall Conference Room, 575 Dorset Street, South Burlington.

Feedback on the draft amendments is welcome, either in person at the hearing, or in writing in advance of the hearing date. Should you have any questions, feel free contact the Department of Planning & Zoning.



southburlington
PLANNING & ZONING

**PROPOSED AMENDMENTS to the SOUTH BURLINGTON
LAND DEVELOPMENT REGULATIONS**

Public Hearing January 8, 2013

PLEASE TAKE NOTICE that the South Burlington Planning Commission will hold a public hearing on Tuesday, January 8th at 7:00 PM or shortly thereafter in the City Hall Conference Room, 575 Dorset Street, South Burlington, VT to consider the following amendments to the South Burlington Land Development Regulations:

1. Revise “mix of housing type” standards in the Southeast Quadrant to focus on style of building;
2. Prohibit elective Planned Unit Development review on lots of less than two (2) acres in the R1, R1-LV, R2, R4, and LN zoning districts;
3. Require a minimum road frontage of 50’ on lots in the R1, R1-LV, R2, R4, and LN zoning districts;
4. Permit cannabis dispensaries (dispensing only) in the C1-R12, C1-R15, C1-Auto, C1-Air, CD-1, CD-2, CD-3, CD-4, SW, C2, and IC-TO zoning districts;
5. Permit cannabis dispensaries (cultivation only) in the IC and IO zoning districts;
6. Amend Planning Commission terms and duties to be consistent with the City Charter;
7. Amend Temporary Uses Exempt from review to include all organizations and residents, and include outdoor events, not only outdoor “sales” events;
8. Adjust re-approval process for previously-approved Seasonal Mobile Food Units to allow for administrative re-approval;
9. Allow for changes of use to all those allowed within the underlying zoning district for pre-existing buildings within the Interstate Overlay District; and,
10. Create a new use category for “indoor vehicle storage” permitted as an accessory use in the Mixed Industrial-Commercial District
11. Technical corrections related to the above amendments.

Copies of the proposed amendment are available for inspection at the Department of Planning & Zoning, City Hall, 2nd Floor, 575 Dorset Street, South Burlington, between 8:00 AM and 4:30 PM Monday through Friday except holidays, and on the city website at www.sburl.com/planning.

Jessica Louisos, Chair

Draft Amendments to Land Development Regulations

Key to amendments:

Proposed **additions are bold and underlined**

Proposed ~~deletions have a line through them~~

NOTES FOR CLARITY ARE IN SMALL CAPITAL LETTERS

1. HOUSING “TYPE” STANDARDS IN THE SOUTHEAST QUADRANT

9.08 SEQ-NRT and SEQ-NR Subdistricts; Specific Standards

...
C.

Residential Design

...

(5) Mix of Housing Types Styles. A mix of housing types **styles (i.e. ranch, cape cod, colonial, etc.), sizes, and affordability** is encouraged within neighborhoods and developments. ~~Housing types~~ **These** should be mixed within blocks, along the street, and within neighborhoods rather than compartmentalized into sections of **near-identical units.** ~~housing types.~~

9.09 SEQ-VR Subdistrict; Specific Standards

...
C.

Residential Design

...

(5) Mix of Housing Types Styles. A mix of housing types **styles (i.e. ranch, cape cod, colonial, etc.), sizes, and affordability** is encouraged within neighborhoods and developments. ~~Housing types~~ **These** should be mixed within blocks, along the street, and within neighborhoods rather than compartmentalized into sections of **near-identical units.** ~~housing types.~~

2. PUD LIMITS ON SMALL PARCELS / MIN ROAD FRONTAGE

3.05 Lots

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C. Road Frontage. In order to promote infill development while protecting the character of existing neighborhoods, no lot shall be created without a minimum of 50-ft of frontage on a public road in the following districts: R1, R1-LV, R2, R4, and LN

C D. Pre-existing small lots...

D E. Corner lots...

15.02 Authority Required Review

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15.02 C. Elective PUD Review. In all districts of the City, any applicant for site plan, conditional use and/or subdivision review, or any other application for land development requiring action by the Development Review Board, may request review pursuant to the PUD process and regulations, **except for parcels of land less than two (2) acres in the following districts: R1, R1-LV, R2, R4, and LN.**

3. CANNABIS DISPENSARIES

PREPARED BY: STAFF, BASED ON 10-9-2012 PC MEETING

2.02 Specific Definitions

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Cannabis Dispensary: a nonprofit entity registered under section 18 VSA 4474e which acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief.

Cannabis Dispensary (dispensing only) A portion of a cannabis dispensary providing marijuana for symptom relief to registered patients.

Cannabis Dispensary (cultivation only): A portion of a cannabis dispensary where the marijuana is cultivated.

CHANGES TO TABLE OF USES:

NEW USE: **Cannabis dispensary (dispensing only).** Use permitted within the following districts: C1-R12, C1-R15, C1-Auto, C1-Air, CD-1, CD-2, CD-3, CD-4, SW, C2, IC-TO.

NEW USE: **Cannabis dispensary (cultivation only).** Use permitted within the following Districts: Industrial-Commercial (IC) and Industrial-Open Space (IO).

4. PLANNING COMMISSION MEMBERSHIP, TERMS, DUTIES

17.07 Planning Commission

A. Authorization. The City of South Burlington City Council shall appoint a Planning Commission.

B. Members and Terms of Office. Membership and Terms of Office for the Planning Commission are set forth in the City Charter, 24 V.S.A. App §13-701. ~~The Planning Commission shall have not fewer than three (3) nor more than nine (9) voting members. All members shall be appointed by the City Council. All members may be compensated and reimbursed by the City of South Burlington for necessary and reasonable expenses. All members of the Planning Commission shall be residents of the City of South Burlington. The City Council may choose two (2) elected or appointed officials of the municipality to be nonvoting ex-officio members of the Planning Commission.~~

C. ~~Term of Office.~~ The term of each member shall be four (4) years, except that the terms of the members first appointed shall be so fixed that for commissions of eight (8) members or fewer no more than two (2) shall be reappointed or replaced during any future calendar year, and for commissions of nine (9) members, no more than three (3) shall be so reappointed or replaced. Any member may be removed at any time by a unanimous vote of the City Council. ~~Any appointment to fill a vacancy shall be for the unexpired term. If a member relocates to another municipality before his or her term of office expires, such member shall be replaced.~~

D. Procedural Rules. The Planning Commission shall elect its chairman and a clerk. The Planning Commission shall keep a record of its resolutions, transactions, and findings of fact, which shall be maintained as a public record of the municipality. The Planning Commission shall adopt by majority vote of those members present and voting such rules as it deems necessary and appropriate for the performance of its functions.

E. Powers and Duties. The planning commission shall exercise all powers and duties as provided for in the City Charter, 24 V.S.A. App. § 13-702.

- (1) ~~Prepare the City of South Burlington Comprehensive Plan and amendments thereof for consideration by the City Council and to review any amendments thereof initiated by others as set forth in Vermont Municipal Planning and Development Act Title 24, Part 2, Chapter 117, subchapter 5.~~
- (2) ~~Prepare and present to the City Council proposed bylaws and make recommendations to the City Council on proposed amendments to such bylaws as set forth in subchapter 6 of the above mentioned chapter.~~
- (3) ~~Administer bylaws adopted under subchapter 6 of the abovementioned chapter, except to the extent that those functions are performed by the City of South Burlington Development Review Board.~~
- (4) ~~Order capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation,~~

~~the conservation of energy and the development of renewable energy resources, and wetland protection. Data gathered by the planning commission that is relevant to the geographic information system established under 3 V.S.A. 20 shall be compatible with, useful to, and shared with that system.~~

- ~~(5) Prepare and present a recommended capital budget and program for a period of five years, as set forth in section 4426 of Title 24, for action by the City Council, as set forth under section 4404a of Title 24.~~
- ~~(6) Hold public meetings.~~
- ~~(7) Require from other departments and agencies of the city such available information as relates to the work of the planning commission.~~
- ~~(8) In performance of its functions, enter upon land to make examinations and surveys.~~
- ~~(9) Participate in a regional planning program.~~
- ~~(10) Retain staff and consultant assistance in carrying out its duties and powers.~~
- ~~(11) Undertake comprehensive planning, including related preliminary planning and engineering studies.~~
- ~~(12) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by and the intents and purposes of Title 24, Chapter 117.~~

5. TEMPORARY STRUCTURES & USES

3.08 Temporary Structures and Uses

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E. Temporary Uses Exempt from Review. The following uses are permitted without requiring review under this section provided such uses do not exceed the stated **limits of this subsection**. Uses which exceed the stated limits shall be considered to be permanent uses and, as such, are restricted by other portions of these regulations.

...

- (4) Outdoor sales events held by a business, **organization, or resident** on the same lot for no more than four (4) consecutive days, two (2) times per calendar year.

6. INDOOR VEHICLE STORAGE IN MIXED INDUSTRIAL-COMMERCIAL

APPENDIX C

PERMITTED AS ACCESORY USE IN IC DISTRICT: **Indoor vehicle storage, maximum 10,000 square feet** (TO BE LABELLED AS **P-ACC**)

2.02 Specific Definitions:

Indoor vehicle storage. Indoor facility used to store motor vehicles, such as cars, pick-up trucks, RVs, motor cycles, snowmobiles and boats, but not including aircraft or any vehicle

requiring a CDL operator's license. Vehicle storage is typically seasonal, and vehicles are not typically accessible to their owners during the storage period.

7. SEASONAL MOBILE FOOD UNITS

13.22 Seasonal Mobile Food Units

Seasonal mobile food units shall be subject to site plan review by the Development Review Board and the following requirements:

- A. A proposed seasonal mobile food unit shall provide evidence of a valid Commercial Caterer License from the Vermont Department of Health.
- B. A seasonal mobile food unit may have temporary outdoor seating for a maximum of sixteen (16) people. Temporary outdoor seating shall be placed directly on the ground with no foundation or underlying structure.
- C. A seasonal mobile food unit shall not be permitted to operate between the hours of 9:00 pm and 7:00 am.
- ~~D. A seasonal mobile food unit shall not be permitted to operate between November 1 and March 30.~~
- E. A seasonal mobile food unit, and any associated seating and accessory items such as dumpsters, shall be removed from the property at the expiry of its permit under these regulations.
- F. A seasonal mobile food unit shall be exempt from landscaping requirements under these regulations.
- G. Prior to approval of a **zoning** permit or renewal, a written recommendation shall be sought from the South Burlington Police Department, South Burlington Fire Department, and South Burlington Department of Public Works. Said permit or renewal may be denied, if vehicular access to the property is likely to, or has, created unsafe vehicular or pedestrian traffic conditions adjacent to the property.
- H. A zoning permit for a seasonal mobile food unit shall be valid for a maximum of ~~two~~ **seven (7) months, from April 1 to October 31, after which time it expires.** After the completion of the first month, the applicant may request renewal of the permit for an additional two (2) months within the calendar year on the same property. Up to two (2) renewals may be applied for during a calendar year.
- I. **A seasonal mobile food unit zoning permit may be renewed in subsequent calendar years at the request of the applicant.** The administrative officer shall approve the renewal upon finding that all aspects of the permit and these ~~requirements~~ **regulations** have been met **and in the previous year's operation of the seasonal mobile food unit to date. No such renewal shall be issued if no zoning permit was issued in the previous calendar year.**

- J. **Any modifications to an approved site plan shall require an amendment as required by these Regulations.**
- K. A seasonal mobile food unit shall be exempt from Section 10.02, Traffic Overlay District, of these regulations.
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8. INTERSTATE HIGHWAY OVERLAY

10.04 Interstate Highway Overlay District (IHO)

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C. Use Standards.

- (1) No building of any kind, including any structure of construction such as parking facilities or lots, **or** tennis courts, ~~or farm buildings,~~ shall be permitted within the district, except as specifically provided in this section. Any use or structure granted approval within the Interstate Highway Overlay District shall be subject to the specific provisions of this section.
- (2) The following **structures and infrastructure** uses shall generally be allowed in the IHO district, subject to conditional use approval by the Development Review Board:
 - (a) ~~Agriculture, horticulture, and forestry including the keeping of livestock, provided that any building or structure including parking facilities appurtenant to such uses is located outside the IHO district.~~
 - (b) Public recreation paths
 - (c) Roadways or access drives for purposes of accessing a preexisting or approved structure within the IHO district and no other reasonable provisions for access can be made.
 - (d) Utility lines, including ~~power,~~ telephone, cable, sewer and water.
 - (e) Stormwater treatment facilities and maintenance thereof, including necessary removal of vegetation and dredging.
 - (f) Research and educational activities provided any building or structure, including parking lots or facilities, is located outside the IHO district.
 - (g) Hydro-electric power generation
 - (h) Municipal buildings, subject to the provisions of Section 10.03(D) below.
- (3) Use of nonconforming structures. Nonconforming structures within the IHO district may be used for any land use allowed within the underlying zoning district, in accordance with Table C-1, Table of Uses.**
- ~~(3)~~ **4** Encroachment of other uses into the IHO district. The encroachment of land uses allowed in the underlying zoning district into the IHO district may be allowed by the Development Review Board as a conditional use under certain circumstances

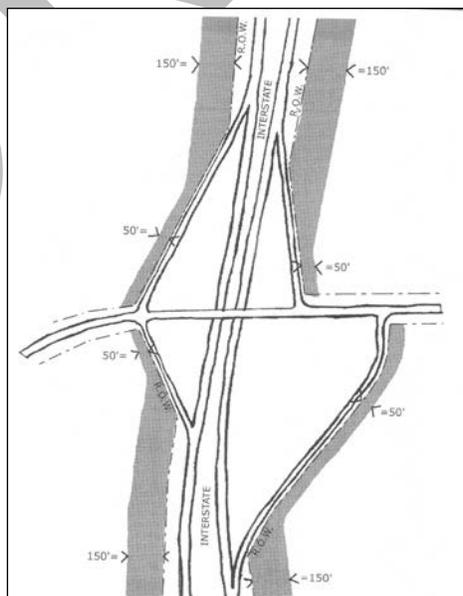
as provided below, and provided the area of encroachment is screened from view by existing or proposed landscaping and/or topography:

- (a) The encroachment is necessary to rectify a natural catastrophe or for the protection of the public health, safety or welfare; OR
- (b) The encroachment is necessary for the purposes of providing for or improving public facilities; OR
- (c) The encroachment is necessary to provide safe access to a parcel on which a use has been approved by the DRB in cases where there is no feasible alternative to the encroachment.

D. Encroachment of municipal buildings in the IHO district. In portions of the IHO district where the underlying zoning district is MU-Municipal, the Development Review Board may allow the encroachment of municipal facilities as a conditional use subject to the following standards and criteria:

- (1) Accessory uses not directly related and essential to the functioning of the municipal building shall not be permitted within the IHO district.
- (2) A finding is made by the DRB that the proposed municipal building cannot be located outside the IHO district because the following criteria are met:
 - (a) The use must occur in close proximity to another preexisting municipal building; AND
 - (b) There is no reasonably practicable alternative location for the municipal building, with pre-existing investment in the site a consideration for the practicability of alternative locations; AND
 - (c) The encroachment is the minimum necessary to operate the proposed municipal building.
- (3) The maximum extent of the encroachment shall be no more than fifteen (15) feet into the IHO district.

Figure 10-1 Interstate Highway Overlay District





South Burlington Planning Commission Proposed Land Development Regulation Amendment Report Public Hearing Scheduled for January 8, 2013

In accordance with 24 V.S.A. §4441(c), the South Burlington Planning Commission has prepared the following report regarding the proposed amendment to the city's Land Development Regulations.

Brief Description of the Proposed Amendments

The South Burlington Planning Commission will hold a public hearing on January 8, 2013 in the City Hall Conference Room, 575 Dorset Street, South Burlington, VT to consider the following amendment to the South Burlington Land Development Regulations:

1. Revise "mix of housing type" standards in the Southeast Quadrant to focus on style of building;
2. Prohibit elective Planned Unit Development review on lots of less than two (2) acres in the R1, R1-LV, R2, R4, and LN zoning districts;
3. Require a minimum road frontage of 50' on lots in the R1, R1-LV, R2, R4, and LN zoning districts;
4. Permit cannabis dispensaries (dispensing only) in the C1-R12, C1-R15, C1-Auto, C1-Air, CD-1, CD-2, CD-3, CD-4, SW, C2, and IC-TO zoning districts;
5. Permit cannabis dispensaries (cultivation only) in the IC and IO zoning districts;
6. Amend Planning Commission terms and duties to be consistent with the City Charter;
7. Amend Temporary Uses Exempt from review to include all organizations and residents, and include outdoor events, not only outdoor "sales" events;
8. Adjust re-approval process for previously-approved Seasonal Mobile Food Units to allow for administrative re-approval;
9. Allow for changes of use to all those allowed within the underlying zoning district for pre-existing buildings within the Interstate Overlay District; and,
10. Create a new use category for "indoor vehicle storage" permitted as an accessory use in the Mixed Industrial-Commercial District
11. Technical corrections related to the above amendments.

Findings Concerning the Proposed Amendment

The proposed amendments have been considered by the Planning Commission for their consistency with the text, goals, and objectives of the City of South Burlington's Comprehensive Plan, last adopted March 9, 2011. For each of the amendments, the Commission has addressed the following as enumerated under 24 VSA 4441(c):

"...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 section 4444 of this title, and shall include findings regarding how the proposal:

- (1) 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.*
- (2) Is compatible with the proposed future land uses and densities of the municipal plan.*
- (3) Carries out, as applicable, any specific proposals for any planned community facilities."*

1. Revise "mix of housing type" standards in the Southeast Quadrant to focus on style of building;

- (1) 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*

The proposed amendment advances the Plan's recommendation to have different types of housing, defined as styles. The amendment continues to allow for a variety of housing types, defined as single-family, duplex, and multi-family housing, but does not specify whether these are recommended to be mixed within individual developments.

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

The proposed amendments are not anticipated to affect future land uses or densities.

- (3) Carries out, as applicable, any specific proposals for any planned community facilities.*

The proposed amendments are not anticipated to affect planned community facilities.

2. Prohibit elective Planned Unit Development review on lots of less than two (2) acres in the R1, R1-LV, R2, R4, and LN zoning districts;

- (1) 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*

The proposed amendments advance goals of protecting existing neighborhoods from incompatible development. The amendment may affect the ability for some small

properties to build a second house in the rear or side of an existing house, or for small-lot “cottage housing” to be built as a PUD.

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

The proposed amendments are not anticipated to affect future land uses or densities.

- (3) *Carries out, as applicable, any specific proposals for any planned community facilities.*

The proposed amendments are not anticipated to affect planned community facilities.

3. Require a minimum road frontage of 50’ on lots in the R1, R1-LV, R2, R4, and LN zoning districts;

- (1) *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*

The proposed amendments advance goals of protecting existing neighborhoods from incompatible development. The amendment may affect the ability for some small properties to build a second house in the rear or side of an existing house, or for small-lot “cottage housing” to be built as a PUD.

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

The proposed amendments are not anticipated to affect future land uses or densities.

- (3) *Carries out, as applicable, any specific proposals for any planned community facilities.*

The proposed amendments are not anticipated to affect planned community facilities.

4. Permit cannabis dispensaries (dispensing only) in the C1-R12, C1-R15, C1-Auto, C1-Air, CD-1, CD-2, CD-3, CD-4, SW, C2, and IC-TO zoning districts;

- (1) *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*

The proposed amendments are consistent with the Plan’s goals of providing for diverse land uses and needs within the community.

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

The proposed amendments are not anticipated to affect future land uses or densities.

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

The proposed amendments are not anticipated to affect planned community facilities.

5. Permit cannabis dispensaries (cultivation only) in the IC and IO zoning districts;

(1) *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*

The proposed amendments are consistent with the Plan's goals of providing for diverse land uses and needs within the community.

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

The proposed amendments are not anticipated to affect future land uses or densities.

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

The proposed amendments are not anticipated to affect planned community facilities.

6. Allow for changes of use to all those allowed within the underlying zoning district for pre-existing buildings within the Interstate Overlay District;

(1) *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*

The proposed amendments are consistent with the goals of the Comprehensive Plan to allow for orderly development and use of properties. The amendment may allow in some instances for housing to be located in buildings that previously did not permit them.

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

The proposed amendments are not anticipated to affect future land uses or densities.

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

The proposed amendments are not anticipated to affect planned community facilities.

7. Amend Planning Commission terms and duties to be consistent with the City Charter;

8. Amend Temporary Uses Exempt from review to include all organizations and residents, and include outdoor events, not only outdoor "sales" events;

9. Adjust re-approval process for previously-approved Seasonal Mobile Food Units to allow for administrative re-approval;
10. Create a new use category for “indoor vehicle storage” permitted as an accessory use in the Mixed Industrial-Commercial District
11. Technical corrections related to the above amendments.

For each of the above five (5) amendments, the proposed minor changes are consistent with the Comprehensive Plan, have no anticipated effect on housing availability, are compatible with uses and densities in the Plan, and have no anticipated effect on planned communities facilities.