

***Burlington Comprehensive Development Ordinance***  
***PROPOSED ZA-09-15 Downtown Use and Height***  
**Councilor Knodell Proposed Amendment – 9 March 2009**

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance*.

**Sec. 4.4.1 Downtown Mixed Use Districts**

**(b) Dimensional Standards and Density:**

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage within the Downtown Mixed Use districts shall be governed by the standards as defined in Table 4.4.1-1 below:

<b>Table 4.4.1-1 Dimensional Standards and Intensity</b>						
<b>Districts</b>	<b>Max. Intensity</b> (floor area ratio <sup>1</sup> )	<b>Max. Lot Coverage</b>	<b>Min. Building Setbacks (feet)</b>			<b>Height<sup>3</sup></b> (feet)
			<b>Front<sup>5</sup></b>	<b>Side<sup>2, 4</sup></b>	<b>Rear<sup>2, 4</sup></b>	
<b>Downtown</b>						
<b>D<sup>6</sup></b>	5.5 FAR	100%	Greater of 0' or 12' from curb	0	0	Min: 30 Max: 65
<p>1 Floor area ratio is defined and described in Art 5. Bonuses for additional FAR where available are described in section (d)6 below. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.</p> <p>2 Structures shall be setback a minimum of 15-feet along any property line that abuts a residential zoning district.</p> <p>3 Minimum building height shall be 30-feet and 3 stories. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height where available are described in section (d)6 below. Any portion of a building over 45-feet in height shall be setback from the front property line pursuant to the requirements of (d)4 below.</p> <p>4 All structures shall be setback a minimum of 50-feet from the shoreline of Lake Champlain unless an encroachment is authorized under (d)5 below.</p> <p>5 All structures shall be setback 12-feet from the curb on a public street except as otherwise allowed by the DRB for development along the following streets: both sides of Center Street; both sides of Pine Street between Cherry and Pearl Streets; the east side of Pine Street between Bank and Main Streets; the west side of Pine Street between College and Main Streets; and South Winooski Avenue between Bank and College Streets. The DRB may order a wider setback in any case under its review if it should determine that the application cannot be approved under applicable criteria without such additional setback.</p> <p><u>6 Development of sites greater than 10,000 square feet are subject to the use, and maximum and minimum building height requirements found in Sec. 4.4.1 (d) 1. B.</u></p>						

(d) District Specific Regulations

**1. Use Restrictions**

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

**A. Ground Floor Residential Uses Restricted:**

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

- i) in the Downtown (D) and Downtown Waterfront (DW) districts.
- ii) any structure fronting on Pearl, So. Winooski and Main streets in the Downtown Transition (DT) district.
- iii) any structure fronting on Battery Street in the Battery Street Transition (BST) district.

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

**B. Residential/Nonresidential Mix Requirements:**

In order to maintain a balance between residential and nonresidential uses in the Downtown (D) and Downtown Waterfront (DW) districts, at least 50% of the gross floor area of any site being developed must be occupied by a non-residential use and no more than 50% of the gross floor area of any such development site may be occupied by a residential use. the following restrictions apply on development sites >10,000 sqft. (Building use percentages refer to gross floor area. The DRB may consider minor adjustments (+/-2%) to these thresholds given site-by-site specific circumstances):

- i) Buildings containing between 100-20% residential use as measured by gross floor area shall be subject to the following requirements:
  - The required minimum building height shall be the greater of 4 stories or 45-ft for all new buildings.
  - The maximum building height shall be 73 feet and shall not exceed 6 stories.
  - The maximum building height shall be 107 feet and shall not exceed 9 stories through the use of any opportunities for development bonuses and allowances as may be permitted at the discretion of the DRB pursuant to Sec. 4.4.1 (d) 6.
  - For the non-residential proportion of the building, all required

parking spaces provided pursuant to the requirements of Article 8 (subject to a minimum of 40 parking spaces if so required) shall be made available to the general public at all hours of holidays; between the hours of 5:00 pm and 6:00 am on weekdays, and from 5:00 pm on Friday until 6:00 am on the following Monday without the benefit of any additional building height and corresponding FAR pursuant to Sec. 4.4.1 (d) 6. C. (i) regarding Public Parking. The DRB may make minor modifications to these hours as may be necessary to address the unique needs of the proposed development.

ii) Buildings containing between 100-80% non-residential use as measured by gross floor area shall be subject to the following requirements:

- The required minimum building height shall be the greater of 4 stories or 45-ft for all new buildings.
- The maximum building height shall be 127 feet and shall not exceed 10 stories without the necessity of any development bonuses and allowances provided pursuant to Sec. 4.4.1 (d) 6.
- For the non-residential proportion of the building, all required parking spaces provided pursuant to the requirements of Article 8 (subject to a minimum of 40 parking spaces if so required) shall be made available to the general public at all hours of holidays; between the hours of 5:00 pm and 6:00 am on weekdays, and from 5:00 pm on Friday until 6:00 am on the following Monday without the benefit of any additional building height and corresponding FAR pursuant to Sec. 4.4.1 (d) 6. C. (i) regarding Public Parking. The DRB may make minor modifications to these hours as may be necessary to address the unique needs of the proposed development.

**Comment [DEW1]:** Amended per Councilor Knodell from 99 feet and 7 stories, and removed bonuses necessary to reach this height.

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

In order to maintain a balance between residential and nonresidential uses in the Downtown Waterfront (DW) district. Additionally, no more than 75% of the gross floor area of any structure may be occupied by an office use in the Downtown Waterfront (DW) district.

## **6. Development Bonuses/Additional Allowances**

### **D. Job Attraction and Expansion Bonus:**

~~A bonus in excess of the base height and FAR allowance in all downtown mixed use districts~~ the Downtown Transition, Downtown Waterfront, and

Battery Street Transition districts may be permitted at the discretion of the DRB for the construction or rehabilitation of buildings for non-residential development that encourages and supports the expansion and retention of Burlington’s commercial employment base as follows...

**6. Development Bonuses/Additional Allowances**

**H. Maximum Bonus:**

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

<b>Table 4.4.1-2: Maximum FAR and Building Heights with Bonuses</b>		
	<b>Maximum FAR</b>	<b>Maximum Height</b>
<b>Downtown</b>	8.5 FAR	105 feet
<u>Sites &gt; 10,000 sqft</u>	<u>8.5 FAR</u>	<u>127 feet</u>
<b>Downtown - Transition:</b>		
A. D-T North of Buell	5.0 FAR	55 feet
B. D-T Main St. South	8.5 FAR	105 feet
C. D-T South of Buell	5.5 FAR	65 feet
D. D-T South of Maple	3.0 FAR	45 feet
<b>Downtown Waterfront:</b>		
A. North of Pearl - East	5.5 FAR	65 feet
B. Pearl to Bank - East	5.5 FAR	65 feet
C. Pearl to Bank - West	3.0 FAR	35 feet
D. Bank to College - East	5.0 FAR	55 feet
E. Bank to College - West	3.0 FAR	35 feet
F. South of College	3.0 FAR	35 feet

<b>Table 4.4.1-2: Maximum FAR and Building Heights with Bonuses</b>		
	<b>Maximum FAR</b>	<b>Maximum Height</b>
<b>Downtown Waterfront - Public Trust:</b>		
A. North of Pearl - West	3.0 FAR	35 feet
B. Lakeshore	3.0 FAR	35 feet
<b>Battery Street Transition</b>	4.5 FAR	55 feet

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**Sec. 4.4.2 Neighborhood Mixed Use Districts**

**(d) District Specific Regulations:**

**1. Ground Floor Residential Uses Restricted**

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted ~~on the ground floor~~ along the street-level frontage of any structure in the NAC District