



City of Burlington, VT
149 Church Street, 3rd Floor
Burlington, VT 05401
Phone: (802) 865-7144

www.burlingtonvt.gov/plan

TO: Vermont House Committee on Environment
FROM: Charles Dillard, Director, Office of City Planning, City of Burlington
DATE: May 8, 2025
RE: Testimony on Proposed Amendment – S.127 - Emergency Shelters

Overview & Background

Burlington adopted emergency shelter standards into its Comprehensive Development Ordinance (CDO) in December 2017. The standards included a definition, permitted and conditional use designations in the use table, and special use criteria. In July 2023, Act 47 (AKA the HOME Act) was passed into law. Among other things, the act established standards for emergency shelters that came into effect on September 1, 2023. The statutory standards include a new definition of emergency shelter and add emergency shelters to the list of uses subject to limited municipal review under 24 VSA, Sec. 4413. This section limits municipal zoning review to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use. The act also expressly notes that regulating the daily or seasonal hours of operation of an emergency shelter shall constitute interfering with the intended functional use.

Act 47 substantially limits municipal zoning review of emergency shelters and renders moot much of the City's CDO standards pertaining to them. Following the adoption of Act 47, the Office of City Planning worked with the Planning Commission and City Council Ordinance Committee to craft an amendment to the City's CDO, aligning emergency shelter provisions with state law.

During its discussion of the amendment, the Planning Commission received testimony from experts in the fields of emergency housing and homelessness, including the Special Assistant to End Homelessness for the City of Burlington, the Chief Operating Officer of Champlain Housing Trust, and the Executive Director of the Champlain Valley Office of Economic Opportunity (CVOEO). In addition to amending Appendix A – Use Table to allow Emergency Shelters as-of-right in the districts where the use is currently allowed conditionally, the Planning Commission recommended allowing the use in the Institutional and Enterprise-Light Manufacturing Districts.

The City Council Ordinance Committee met on November 5th, 2024, and recommended the following revisions to the proposed ordinance:

- Retains the proposed new definition for Emergency Shelter and proposes a new definition of "Occupancy Agreement," in order to provide greater clarity.
- Alters Appendix A – Use Table, to revise the list of districts where Emergency Shelters are proposed to be allowed. The Committee proposed to prohibit Emergency Shelters in the Residential-Low (RL), Residential-Medium (RM), Neighborhood Activity Center-Cambrian Rise, and Enterprise-Light Manufacturing (E-LM) districts, all of which had previously been recommended by the Planning Commission as districts that should allow this use. The Committee also proposed to amend the Use Table and Article 14 to clarify that Emergency Shelters would be allowed in the Residential-Corridor and Downtown Form Code Districts (FD5 and FD6).

Emergency Shelters and Conditional Use Standards

A frequent topic in policy discussions regarding Emergency Shelters has been the legal ambiguity regarding conditional use standards and compliance with the HOME Act. Primarily, Burlington's City Council has suggested that, were it clear that as long as emergency shelters were permitted

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact the City Planning department or 711 if you are hearing or speech impaired.

unconditionally in one district, there could be consensus on allowing them in other districts on a conditional basis. Again, it appears there is broad agreement among Burlington's elected officials and staff that the emergency shelter use should be allowed unconditionally in multiple districts, including the City's Downtown, Institutional and three of its four Neighborhood Mixed Use Districts. It is notable that the City Council's Ordinance Committee altered the 2024 zoning amendment, as recommended by the Planning Commission, to no longer propose that the use be allowed in certain districts, based on what was presumed to be an inability to establish conditional use standards. Primarily, this conversation has focused on Burlington's Residential-Low and Residential-Medium districts, which account for the vast majority of the City's neighborhoods.

The proposed amendment to S.127, which makes clear that conditional use standards are allowed as long as the use is allowed unconditionally in one or more districts, would likely result in an amendment to Burlington's CDO that will be adopted.

For these reasons, the City of Burlington supports this proposed amendment language.