



Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference ROom OR REMOTELY via ZOOM

When: May 16, 2024 02:00 PM Eastern Time (US and Canada)
Topic: Ordinance Committee Meeting

Please click the link below to join the webinar:

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+1 253 215 8782 US (Tacoma)

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1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference ROom OR REMOTELY via ZOOM
Category	1. Agenda
Department	
Type	
Recommended Action	

2. Adopt Draft Minutes from May 2, 2024

Subject	2.1. Adopt Draft Minutes from May 2, 2024
Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference Room OR REMOTELY via ZOOM
Category	2. Adopt Draft Minutes from May 2, 2024
Department	Council and Board
Type	
Recommended Action	

3. Public Forum

Subject	3.1. Verbal Comments
Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference Room OR REMOTELY via ZOOM
Category	3. Public Forum
Department	Council and Board
Type	

4. Trespass Ordinance Discussion

Subject	4.1. Trespass Ordinance Discussion
Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference Room OR REMOTELY via ZOOM
Category	4. Trespass Ordinance Discussion
Department	Council and Board
Type	
Recommended Action	

5. Graffiti Ordinance Discussion

Subject	5.1. Graffiti Ordinance Discussion
Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference Room OR REMOTELY via ZOOM
Category	5. Graffiti Ordinance Discussion
Department	Council and Board
Type	
Recommended Action	

6. Any Other Committee Business

Subject	6.1. Any Other Committee Business
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Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference Room OR REMOTELY via ZOOM
Category	6. Any Other Committee Business
Department	Council and Board
Type	
Recommended Action	

7. Adjournment

Subject	7.1. Motion to adjourn
Meeting	May 16, 2024 - Ordinance Committee Meeting - Thursday, May 16, 2024, 2:00 PM, 645 Pine Street Public Works Front Conference Room OR REMOTELY via ZOOM
Category	7. Adjournment
Department	Council and Board
Type	
Recommended Action	

Ordinance Committee
Thursday, May 2, 2024 at 4:00PM
Bushor Conference Room, City Hall and Remote via Zoom

DRAFT MINUTES

Members Present: Councilor Shannon (Chair), Councilor Bergman, Councilor Brown McKnight

Staff Present: Kim Sturtevant (Assistant City Attorney)

Public Present:

Meeting called to order at 4:00 PM.

1. Adopt the Agenda

1.01 Adopt the Agenda

Motion to Adopt Agenda as drafted.

Motion by Councilor Bergman, seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Unanimous

2. Adopt Draft Minutes from January 24, 2024

2.01 Adopt Draft Minutes from January 24, 2024

Motion to Adopt Minutes from January 24, 2024.

Motion by Councilor Bergman, seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Unanimous

3. Public Comment

Sharon Bushor: The trespass issue has been before the Committee before. I wanted to know what training the non-police staff would go through once this ordinance is finalized. I feel it's also important to get the word out to the business community to inform them of the new rules and how it will work. The graffiti ordinance is too short and does not address issues of hate. I think expanding Part C to include hateful or discriminatory graffiti would be appropriate. Also the penalties would need to be reevaluated.

4.0 Discuss of Draft Trespass Ordinance Changes

Councilor Shannon asked Attorney Sturtevant about the status of the draft trespass ordinance. Attorney Sturtevant said she will circulate the draft changes thus far to the Committee. The draft changes allow other City staff like Urban Park Rangers to enforce the ordinance. References to other ordinances were cleaned up as well.

Councilor Shannon asked if there was any draft changes on the issue of allowing tenants to ask for trespass notices for individuals in entryways or common spaces in their residences. Council Bergman said it depends. In a residential building with multiple units neither the landlord nor individual tenants have sole authority over the ability to trespass people in entryways. There was some recent issues with this. He doesn't think this issue is an issue with City ordinance and doesn't think the City has the authority over this area.

Councilor Shannon asked if there was a procedural way for the police to enforce a trespass order at an apartment building assuming all tenants agree. An example would be if someone is sleeping in the doorway and they are not a guest of any tenant.

Councilor Bergman said it would depend if they were in lawful possession of the property and all were in agreement.

Councilor Brown McKnight asked if the City could define lawful possession in ordinance as being all tenants are in agreement.

Councilor Bergman said the City could probably clarify aspects of state law but there would be the question of authority to do so.

Councilor Shannon said there has been two issues that have arisen from this problem. First is in residential buildings with tenants that are not the owner of the property. The second is in commercial areas where workers are not the owners of the property they work in.

Councilor Bergman said for the commercial example it would come down to police procedure and training. Would the police enforce an order that came from a landlord or manager of a property or would it have to be the property owner itself? There is ambiguity on this issue and officers will have to use discretion.

Councilor Shannon said the obvious next step would be to have Chief Murad speak to the Committee about the issues he and his officers see in this respect.

Councilor Bergman said the Committee should also look at the language in ordinance 1-9 regarding enforcement as well. He said that he does not think that non-City officials like contracted security guards can or should be enforcing trespassing notices. The state statute that the City relies is 24 V.S.A. § 1977 and that statute says a trespass ticket is a civil case and shall be signed by a "municipal official." He said he doesn't want to authorize private security to enforce trespass orders through issuing of tickets.

5.0 Discussion of Potential Graffiti Ordinance Changes

Attorney Sturtevant said that there are some appeals of tickets for graffiti right now. The City Attorney's Office has been looking at other language on this and the draft language mirrors language that was upheld by the Washington State Supreme Court.

Councilor Bergman said there would be constitutional issues to criminalize the speech, but that penalty enhancements should meet muster. He cited 13 V.S.A. § 1455 as the criminal enhancement for hate motivated crimes. Graffiti tickets are civil matters, but the City could match up the language in that subsection.

Councilor Shannon asked if there are cutoffs for certain dollar amounts that could be sent to the Community Justice Center (CJC).

Attorney Sturtevant said yes, there are waiver provisions for restorative justice.

Councilor Bergman said it would be good to revisit those provisions to be more flexible and clear.

Councilor Brown McKnight said the Parks, Arts, and Culture (PAC) Committee is also discussing graffiti and it would be helpful to have a review of all of our processes related to graffiti so everything lines up.

Councilor Bergman said Joe Magee in the Mayor's Office is the point person coordinating issues related to graffiti currently. He also added that state law has changed and now allows municipal fines up to \$800 instead of the previous \$500. There is room for a penalty enhancement.

Councilor Shannon summarized that the Committee wants the draft language from the Attorney's Office and invitations sent to Chief Murad and Director Ward to hear their thoughts on this issue.

6.0 Review and Discussion of Proposed Ordinance Changes Recommended by the Dog Task Force

Councilor Shannon said the Dog Task Force clearly put a lot of work into their report, but wondered if the Committee would put this on hold while other issues are before Committee.

Councilor Bergman said it would be important to get comments from the Clerk/Treasurer's Office since some of the recommendations involve licensing.

Councilor Brown McKnight said she would bring up these issues with the PAC Committee.

Councilor Shannon asked Attorney Sturtevant to inform the relevant departments of this report and to have recommendations back to the Committee by August 30th.

7.0 Short Term Rental Update

Attorney Sturtevant said there is still a pending appeal on this issue. The claim was brought in Superior Court and the active claim is about the authority of the City to put the language in the minimum housing code. The Department of Permitting and Inspections have been registering the rentals and in contact with owners that have not registered. Director Ward would have more information on this.

8.0 Future Meeting Schedule

The next Ordinance Committee meeting will be May 16th from 3:30 to 5:15PM.

9.0 Adjournment

Motion to adjourn by Councilor Shannon, without objection.

Final Resolution: Motion Passes

DRAFT



OFFICE OF THE CLERK/TREASURER

City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142

MEMORANDUM

TO: Ordinance Committee Members

FROM: Lori Olberg, Licensing and Records Coordinator

DATE: December 19, 2023

SUBJECT: 12/18/23 City Council Ordinance: Burlington Code of Ordinances-Sections 21-45 – 21-49 Trespass

Enclosed please find a copy of the ordinance that was referred to your Committee for further review to include, but not be limited to, consideration of the list of parties authorized to issue no trespass orders, balancing no trespass orders with proactive harm reduction efforts and to evaluate expanding the ability to enforce the trespass ordinance on private property. Please keep this as part of your records.

Thank you.

CITY OF BURLINGTON

ORDINANCE

8.5.

Sponsor: Councilors Paul and

Traverse

Public Hearing Dates: _____

In the Year Two Thousand Twenty-Three

An Ordinance in Relation to

BURLINGTON CODE OF ORDINANCES-

Sections 21-45 – 21-49

Trespass

First reading: _____

Referred to: Ordinance Committee *

Rules suspended and placed in all

Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 21, Offenses and Miscellaneous Provisions, Article I, In General, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE I. In General

Secs. 21-1 – 21-44 As written.

Sec. 21-45 Unlawful trespass.

It shall be unlawful for a person who, without legal authority or the consent of the person in lawful possession, enters or remains on any land or in any place as to which notice against trespass is given by:

(a) Actual communication by the person in lawful possession or his agent or by a law enforcement officer, community service officer, community support liason, urban park rangers, parks patrol, or the city's contracted private security acting on behalf of such person or his agent; or

(b) Signs or placards so designed and situated as to give reasonable notice.

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may be imposed for a violation of this section. The civil penalty may, at the discretion of the prosecuting official, be eliminated or reduced upon the successful completion of a restorative or reparative justice program through the community justice program. In lieu of further process and prosecution, persons ticketed for violations of this section may pay a waiver penalty under the schedule set out below:

Waiver Penalty:

First offense: The waiver penalty shall be two hundred fifty dollars (\$250.00).

Second offense, within a six-month period: The waiver penalty shall be three hundred dollars (\$300.00).

32 Third offense or more, within a twelve-month period: The waiver penalty shall be four hundred dollars
33 (\$400.00).

34
35 Each time that the violation occurs will constitute a separate violation of this section. Any law enforcement
36 officer, community service officer, community support liason, urban park rangers, parks patrol, or the city's
37 contracted private security can enforce this section.

38
39 **Sec. 21-45A Notice of trespass on city property.**
40

41 (a) Purpose. The purpose of this section is to enable a city official in charge of city property to issue a
42 notice of trespass and enforce that notice against an individual whose behavior is dangerous, illegal, or
43 unreasonably disruptive, while recognizing the rights of individuals to engage in constitutionally protected
44 activities on public or city-owned property.

45
46 (b) City official/officers authorized to issue notice of trespass. The city council hereby expressly delegates
47 its authority to issue a notice of trespass to any city official who is in charge, at the time of issuance, of the
48 city property for which the notice of trespass is issued and to any sworn officer, community service officer,
49 or community support liason of the Burlington police department or the City's urban park rangers, parks
50 patrol, or contracted private security in the exercise of their official duties (hereinafter "official/officer").
51

52 (c) Issuance of notice of trespass – Initial conference. If an individual violates any city ordinance, rule or
53 regulation, or State law, or within a public building fails to follow the lawful directive of a city official/~~or~~
54 ~~police~~ officer authorized under subsection (b) of this section, that official/officer may issue a notice of
55 trespass for a violation which was committed while on or within a city facility, building, or outdoor area,
56 including a municipal park, for the specific property where the violation occurred, excluding a right-of-way.
57 Prior to issuance of the notice of trespass, the issuing official/officer must ensure that the person to whom a
58 notice of trespass will be issued has been informed of the basis for the notice of trespass and has been given
59 an opportunity and reasonable amount of time to change or address the underlying conduct – that is, a verbal
60 warning must have been issued. No verbal warning is required if the reason for the trespass is an accusation
61 of serious harmful conduct such as arson, assault, harassment or a threat of such conduct. Notices of trespass
62 may be issued at the Fletcher Free Library as provided in Section 21-43.
63

64 (d) Service of notice – Content. In most cases, the notice of trespass must be hand-delivered to the person
65 to whom it is issued by an authorized city official/~~or a law enforcement~~ officer; however, if the
66 circumstances do not permit safe delivery of the notice in person, in the discretion of the authorized city
67 official/~~or law enforcement~~ officer, it may be mailed to the individual's legal address. The written notice of
68 trespass shall detail the basis for which the notice of trespass was issued, the length of time for which the
69 notice of trespass remains in effect, and the consequences for violating the terms of the notice of trespass; it
70 shall also advise the recipient of the right to contest the notice of trespass and the location at which to file the
71 appeal.
72

73 (e) Length of notice of trespass.
74

(1) Generally. For minor, first-time violations, such as having an open container of alcohol, the notice may be issued for up to one (1) day. For moderate violations, such as other nonviolent disorderly conduct, or for a second offense within thirty (30) days, the notice may be issued for up to thirty (30) days. For more serious violations or a third offense within sixty (60) days, the notice may be issued for up to one hundred eighty (180) days. Generally, it is expected that the length of time should reflect the severity or repetitiveness of the underlying conduct. Only for more serious offenses such as conduct that involves violence, harassment, or threats of physical harm to an individual may a notice be issued for over one hundred eighty (180) days, and in any event, a notice of trespass may not be issued for more than one (1) year.

(2) Fletcher Free Library. Due to the nature and character of the Fletcher Free Library, the following durations apply to violations made under the library ordinance. For a violation of Section 21-43(a)(1), a notice of trespass may be issued for up to one hundred eighty (180) days. For a violation of Section 21-43(a)(2), a notice of trespass may be issued for a period up to sixty (60) days. For a violation of Section 21-43(a)(3), a notice of trespass may be issued for a period of one (1) day.

(f) Appeal.

(1) Process. The recipient of a notice of trespass may appeal the notice of trespass by filing an appeal, in writing, within seven (7) calendar days of the issuance of the notice. The written appeal shall include the appellant's name, address, phone number, and indicate whether a hearing is requested. No fee shall be charged for filing the appeal. The appeal shall be filed at the location designated in the notice of trespass. Except for in exigent circumstances, any such appeal shall stay the operation of the notice of trespass beyond the day the appeal is filed, pending a hearing and/or written decision.

(2) Exigent circumstances. For purposes of this chapter, "exigent circumstances" means any situation in which the issuing city official/~~or~~ officer determines that a person presents an immediate and substantial threat or danger to the health, safety, or welfare of another person. In such circumstances, an appeal shall not stay the operation of the notice of trespass.

(3) Designated hearing panels. All appeals made under this chapter shall be heard by the public safety committee of the city council, which will make an annual report to the city council on the number of appeals.

(4) Procedure. When an appeal is filed, the designated hearing panel shall meet within ten (10) business days to consider the appeal. If no hearing is requested, the designated hearing panel may consider any written submissions as part of its decision. If a hearing is requested, the appellant must be provided at least three (3) business days' written notice of the date, time, and location of the hearing. The designated hearing panel shall allow oral and/or written testimony and evidence from the appellant and the issuing city official/~~or~~ officer. In reviewing the notice of trespass, the panel will utilize the preponderance of the evidence standard with the burden of proof on the charging official/~~officer~~ or their representative. The designated hearing panel shall issue a written decision within ten (10) business days of the hearing. The designated hearing panel may extend the time period for hearing if the operation of the notice of trespass is stayed or if the appellant consents.

(5) Waiver requests. An individual who has received a notice of trespass may request a waiver from the issuing official/officer (or in the absence of that official/officer from another city official/officer authorized to issue the notice) in order to access the property for which the notice of trespass was issued for purpose of work, residence, access to government services, or the exercise of constitutionally protected activities. If that waiver is denied, an appeal may be made to the designated hearing panel. In addition, in the context of any appeal of a notice of trespass, the designated hearing panel shall also consider any waiver request from the individual appealing.

(g) Enforcement. Once a notice of trespass has been issued, unless the notice has been stayed by receipt of an appeal or the notice has been overturned by a decision on appeal, a violation of the notice may be enforced pursuant to Section 21-45 (a civil violation) or 13 V.S.A. § 3705 (a criminal violation). Unless the notice of trespass was issued for conduct involving violence, harassment, or threats of physical harm to an individual, enforcement pursuant to 13 V.S.A. § 3705 may only commence with issuance of a citation and a request to leave the premises; however, arrest is permissible for refusal to leave the premises within a reasonable period after issuance of the citation.

Sec. 21-46 Disorderly conduct.

It shall be unlawful for a person who, with the intent to cause public inconvenience, or annoyance or recklessly creating a risk thereof:

- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or
- (b) Makes unreasonable noise; or
- (c) In a public place uses abusive or obscene language; or
- (d) Without lawful authority, disturbs any lawful assembly or meeting or persons; or
- (e) Obstructs vehicular or pedestrian traffic.

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may be imposed for a violation of this section. The civil penalty may, at the discretion of the prosecuting official/officer, be eliminated or reduced upon the successful completion of a restorative or reparative justice program through the community justice program. In lieu of further process and prosecution, persons ticketed for violations of this section may pay a waiver penalty under the schedule set out below:

Waiver Penalty:

First offense: The waiver penalty shall be two hundred fifty dollars (\$250.00).

Second offense, within a six-month period: The waiver penalty shall be three hundred dollars (\$300.00).

Third offense or more, within a twelve-month period: The waiver penalty shall be four hundred dollars (\$400.00).

Each time that the violation occurs will constitute a separate violation of this section. Any city official/~~law enforcement~~-officer can enforce this section.

Sec. 21-47 Unlawful mischief.

It shall be unlawful for a person who, having no right to do so or any reasonable ground to believe that he has such a right, intentionally does damage to property of any value not exceeding two hundred fifty dollars (\$250.00).

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may be imposed for a violation of this section. The civil penalty may, at the discretion of the prosecuting official/officer, be eliminated or reduced upon the successful completion of a restorative or reparative justice program through the community justice program. In lieu of further process and prosecution, persons ticketed for violations of this section may pay a waiver penalty under the schedule set out below:

Waiver Penalty:

First offense: The waiver penalty shall be two hundred fifty dollars (\$250.00).

Second offense, within a six-month period: The waiver penalty shall be three hundred dollars (\$300.00).

Third offense or more, within a twelve-month period: The waiver penalty shall be four hundred dollars (\$400.00).

Each time that the violation occurs will constitute a separate violation of this section. Any city official/~~law enforcement~~-officer can enforce this section.

Sec. 21-48 City Hall Park.

(a) Prohibited activities. Notwithstanding other rules and regulations, the following activities are prohibited at City Hall Park and may be ticketed under this section.

(1) Disorderly conduct as defined by Section 21-46; ~~Any person who, with the intent to cause public inconvenience, or annoyance or recklessly creating a risk thereof;~~

~~a. Engages in fighting or in violent, tumultuous or threatening behavior; or~~

~~b. Makes unreasonable noise; or~~

~~e. — In a public place uses abusive or obscene language; or~~

~~d. — Without lawful authority, disturbs any lawful assembly or meeting or persons; or~~

~~e. — Obstructs vehicular or pedestrian traffic.~~

(2) Unlawful mischief as defined by Section 21-47; ~~— Any person who, having no right to do so or any reasonable ground to believe that he has such a right, intentionally does damage to property, private or public.~~

(3) Graffiti and defacement of property as defined by Section 21-29;

(4) Possession of open or opened intoxicating liquor as defined in 23 V.S.A. § 1200(4), except as permitted pursuant to a valid liquor license and/or an outdoor consumption permit for properly organized and supervised activities or events held within the limits of City Hall Park.

(45) Possession of a regulated drug as defined in 18 V.S.A. § 4201(29).

(b) Enforcement.

(1) First offense. Any violation of any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of two hundred dollars (\$200.00) to a maximum fine of five hundred dollars (\$500.00). The waiver penalty for purposes of the municipal complaint (civil ticket) shall be two hundred dollars (\$200.00). The recipient of a municipal complaint for violation of this section (first offense) shall not be permitted within the City Hall Park for the balance of the day on which the alleged offense occurred.

(2) Second offense. Any violation of any provision of subsection (a) above by an individual who has previously violated any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of three hundred dollars (\$300.00) to maximum fine of five hundred dollars (\$500.00). In addition, the recipient of a municipal complaint for violation of this section (second offense) may be issued an order of no trespass prohibiting the recipient from entering the City Hall Park for a period of up to 90 days commencing immediately upon said issuance. The waiver penalty for purposes of the municipal complaint (civil ticket) second offense shall be three hundred dollars (\$300.00); payment of which shall also be deemed acceptance of the no trespass order. Both the fine and the no trespass order may, at the discretion of the prosecuting official/~~officer~~, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the community justice program.

(3) Third and subsequent offense. Any violation of any provision of subsection (a) above by an individual who has on two (2) or more occasions violated any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of from four hundred dollars (\$400.00) to five hundred dollars (\$500.00). In addition, the recipient of a municipal complaint for violation of this section (third and subsequent offense) may be issued an order of no trespass prohibiting the recipient from

entering the City Hall Park for a period of up to one (1) year commencing immediately upon said issuance. The waiver penalty for purposes of the municipal complaint (civil ticket) third or subsequent offense shall be four hundred dollars (\$400.00); payment of which shall also be deemed acceptance of the no trespass order. Both the fine and the no trespass order may, at the discretion of the prosecuting official/officer, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the community justice program.

Sec. 21-49 Church Street Marketplace District trespass authority.

(a) Purpose. The Burlington city council finds and declares that the following substantial government interests will be advanced by the ability to issue a no trespass order created by this section, based on conditions the police department and the Church Street Marketplace District commission have identified and confront in the Church Street Marketplace District on a regular basis:

- (1) The abatement or removal of nuisances determined to be against the public health, safety or welfare of citizens;
- (2) The protection of citizens from physical threats or injury and from damage to property;
- (3) The prevention of harassment and intimidation of any member of the public;
- (4) The prevention of violent crime;
- (5) The orderly control and safety of pedestrian, car and cart traffic on Church Street; and
- (6) The provision and maintenance of a safe, attractive environment in areas designed to attract tourist revenue.

(b) Findings. The substantial government interests identified in subsection (a) of this section are undermined by unlawful and inappropriate behavior in the Church Street Marketplace District. Such behaviors include, but are not limited to, disorderly conduct, unlawful mischief, the possession and consumption of intoxicating liquor, and the possession and use of regulated drugs.

Specifically:

- (1) Unlawful behavior within the Church Street Marketplace District diminishes this public asset and deprives citizens and visitors of its full use and enjoyment;
- (2) In addition to more serious criminal acts that threaten personal injury and property damage, a wide range of illegal disorderly behaviors can and often do transform the Church Street Marketplace District into an unwelcoming, unattractive and ultimately unsafe public space requiring increased expenditures for public safety and maintenance;

(3) Laws intended to preserve and protect public spaces like the Church Street Marketplace District for the benefit of all people are effective only if those present on the space obey the law. The current criminal and civil penalties for violating these types of laws are frequently inadequate to deter the illegal behavior, to prevent its recurrence, or to provide for the removal of offenders from the public space;

(4) Compliance with behavior laws within the Church Street Marketplace District will be enhanced by the immediate administrative sanction of removing offenders from the Church Street Marketplace District in addition to issuing tickets to them. For repeat offenders and for more serious offenses, exclusion for extended periods will further provide a necessary additional remedy to protect the public;

(5) The failure to comply with these and other laws creates a public nuisance.

(c) Prohibited activities. Notwithstanding other laws, ordinances, rules and regulations, the following activities are prohibited within the Church Street Marketplace District and may result in a no trespass order authorized under this section.

(1) Disorderly conduct as defined by Section 21-46;

(2) Unlawful mischief as defined by Section 21-47;

(3) Graffiti and defacement of property as defined by Section 21-29;

(4) Possession of open or opened intoxicating liquor as defined by 23 V.S.A. § 1200(4), except as permitted pursuant to a valid liquor license and/or an outdoor consumption permit for properly organized and supervised activities or events held within the limits of the Church Street Marketplace District;

(45) Possession of a regulated drug as defined in 18 V.S.A. § 4201(29).

(6) Offense of retail theft as defined by 23 V.S.A. §2575 from a business in the Church Street Marketplace District.

(d) Enforcement.

(1) First offense. Any person ticketed for a prohibited activity noted in subsection (c) of this section as a first offense may also be issued an order of no trespass, and will not be permitted within the Church Street Marketplace District for the balance of the day on which the alleged offense occurred.

(2) Second offense. Any person ticketed for a prohibited activity noted in subsection (c) of this section as a second offense may also be issued an order of no trespass prohibiting the recipient from entering the Church Street Marketplace District for a period of up to ninety (90) days, commencing immediately upon said issuance.

(3) Third and subsequent offense. Any person ticketed for a prohibited activity noted in subsection (c) of this section as a third or subsequent offense may also be issued an order of no trespass prohibiting the

recipient from entering the Church Street Marketplace District for a period of up to one (1) year commencing immediately upon said issuance.

(4) Hearing procedure and staying of order of no trespass.

a. Recipients of an order of no trespass issued pursuant to subsections (d)(2) and (3) of this section may appeal said order to a hearing panel designated by the Church Street Marketplace commission pursuant to the procedure detailed below. Any such appeal shall stay the order of no trespass pending the hearing and written decision of the hearing panel.

b. Any individual subject to the trespass provisions of subsection (d)(1), (2), or (3) of this section may request in writing that a hearing panel of the Church Street Marketplace commission hold a public hearing for the purpose of challenging the issuance of the order of no trespass and/or to request a waiver to access the Church Street Marketplace District for purpose of work, residence, access to government services, the exercise of constitutionally protected activities, and/or for any other good reason as determined by a hearing panel.

c. Recipients shall have thirty (30) days from the date of issuance of an order of no trespass to request a hearing. Requests shall be sent to the executive director of the marketplace commission at 2 Church Street, Suite 2A, Burlington, VT 05401-4457.

d. If a hearing is requested, the hearing shall be scheduled within ten (10) calendar days of receipt of the request, and a written notice of the hearing shall be sent to the recipient at least seven (7) calendar days prior to the hearing.

e. The hearing panel shall consist of three (3) people designated by the Church Street Marketplace commission or its designee, and be comprised of one (1) representative from the business community, one (1) representative from the social services community, and one (1) representative from the general public.

f. The hearing panel shall allow for oral and/or written testimony and evidence from the recipient of the order of no trespass, the issuing ~~city official/police~~ officer, and any other witnesses requesting to be heard.

g. The hearing panel shall issue a written decision within ten (10) calendar days of the hearing.



Move to waive the reading and refer the proposed to the ordinance committee for further review to include, but not be limited to, consideration of the list of parties authorized to issue no trespass orders, balancing no trespass orders with proactive harm reduction efforts and to evaluate expanding the ability to enforce the trespass ordinance on private property.

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

BURLINGTON CODE OF ORDINANCES-
Sections 21-45 – 21-49
Trespass

ORDINANCE _____
Sponsor: _____
Public Hearing Dates: _____

First reading: _____
Referred to: _____
Rules suspended and placed in all
stages of passage: _____
Second reading: _____
Action: _____
Date: _____
Signed by Mayor: _____
Published: _____
Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Chapter 21, Offenses and Miscellaneous Provisions, Article I, In General, of the Code of Ordinances of the City of Burlington be and hereby is amended to read as follows:

ARTICLE I. In General

Secs. 21-1 – 21-44 As written.

Sec. 21-45 Unlawful trespass.

It shall be unlawful for a person who, without legal authority or the consent of the person in lawful possession, enters or remains on any land or in any place as to which notice against trespass is given by:

(a) Actual communication by the person in lawful possession or his agent or by a law enforcement officer, community service officer, community support liason, urban park rangers, parks patrol, the city's contracted private security, or any other city official authorized to enforce the city's ordinances, acting on behalf of such person or his agent; or

(b) Signs or placards so designed and situated as to give reasonable notice.

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may be imposed for a violation of this section. The civil penalty may, at the discretion of the prosecuting official, be eliminated or reduced upon the successful completion of a restorative or reparative justice program through the community justice program. In lieu of further process and prosecution, persons ticketed for violations of this section may pay a waiver penalty under the schedule set out below:

Waiver Penalty:

First offense: The waiver penalty shall be two hundred fifty dollars (\$250.00).

Second offense, within a six-month period: The waiver penalty shall be three hundred dollars (\$300.00).

32
33
34 Third offense or more, within a twelve-month period: The waiver penalty shall be four hundred dollars
35 (\$400.00).
36

37 Each time that the violation occurs will constitute a separate violation of this section. Any law enforcement
38 officer, community service officer, community support liason, urban park rangers, parks patrol, the city's
39 contracted private security, or any other city official authorized to enforce the city's ordinances, can enforce
40 this section.
41

42 **Sec. 21-45A Notice of trespass on city property.**
43

- 44 (a) Purpose. The purpose of this section is to enable a city official in charge of city property to issue a
45 notice of trespass and enforce that notice against an individual whose behavior is dangerous, illegal, or
46 unreasonably disruptive, while recognizing the rights of individuals to engage in constitutionally
47 protected activities on public or city-owned property.
48
- 49 (b) City official/officers authorized to issue notice of trespass. The city council hereby expressly delegates
50 its authority to issue a notice of trespass to any city official who is in charge, at the time of issuance, of
51 the city property for which the notice of trespass is issued and to any sworn officer, community service
52 officer, or community support liason of the Burlington police department or the City's urban park
53 rangers, parks patrol, contracted private security, or any other city official authorized to enforce the
54 city's ordinances, in the exercise of their official duties (hereinafter "official/officer").
55
- 56 (c) Issuance of notice of trespass – Initial conference. If an individual violates any city ordinance, rule or
57 regulation, or State law, or within a public building fails to follow the lawful directive of a city official/
58 ~~or police~~-officer authorized under subsection (b) of this section, that official/officer may issue a notice
59 of trespass for a violation which was committed while on or within a city facility, building, or outdoor
60 area, including a municipal park, for the specific property where the violation occurred, excluding a
61 right-of-way. Prior to issuance of the notice of trespass, the issuing official/officer must ensure that the
62 person to whom a notice of trespass will be issued has been informed of the basis for the notice of
63 trespass and has been given an opportunity and reasonable amount of time to change or address the
64 underlying conduct – that is, a verbal warning must have been issued. No verbal warning is required if
65 the reason for the trespass is an accusation of serious harmful conduct such as arson, assault,
66 harassment or a threat of such conduct. Notices of trespass may be issued at the Fletcher Free Library as
67 provided in Section 21-43.
68
- 69 (d) Service of notice – Content. In most cases, the notice of trespass must be hand-delivered to the person
70 to whom it is issued by an authorized city official/~~or a law enforcement~~-officer; however, if the
71 circumstances do not permit safe delivery of the notice in person, in the discretion of the authorized city
72 official/~~or law enforcement~~-officer, it may be mailed to the individual's legal address. The written
73 notice of trespass shall detail the basis for which the notice of trespass was issued, the length of time for

74 which the notice of trespass remains in effect, and the consequences for violating the terms of the notice
75 of trespass; it shall also advise the recipient of the right to contest the notice of trespass and the location
76 at which to file the appeal.
77

78 (e) Length of notice of trespass.
79

80 (1) Generally. For minor, first-time violations, such as having an open container of alcohol, the notice
81 may be issued for up to one (1) day. For moderate violations, such as other nonviolent disorderly conduct,
82 or for a second offense within thirty (30) days, the notice may be issued for up to thirty (30) days. For
83 more serious violations or a third offense within sixty (60) days, the notice may be issued for up to one
84 hundred eighty (180) days. Generally, it is expected that the length of time should reflect the severity or
85 repetitiveness of the underlying conduct. Only for more serious offenses such as conduct that involves
86 violence, harassment, or threats of physical harm to an individual may a notice be issued for over one
87 hundred eighty (180) days, and in any event, a notice of trespass may not be issued for more than one (1)
88 year.
89

90 (2) Fletcher Free Library. Due to the nature and character of the Fletcher Free Library, the following
91 durations apply to violations made under the library ordinance. For a violation of Section 21-43(a)(1), a
92 notice of trespass may be issued for up to one hundred eighty (180) days. For a violation of Section
93 2143(a)(2), a notice of trespass may be issued for a period up to sixty (60) days. For a violation of Section
94 21-43(a)(3), a notice of trespass may be issued for a period of one (1) day.
95

96 (f) Appeal.
97

98 (1) Process. The recipient of a notice of trespass may appeal the notice of trespass by filing an appeal, in
99 writing, within seven (7) calendar days of the issuance of the notice. The written appeal shall include the
100 appellant's name, address, phone number, and indicate whether a hearing is requested. No fee shall be
101 charged for filing the appeal. The appeal shall be filed at the location designated in the notice of trespass.
102 Except for in exigent circumstances, any such appeal shall stay the operation of the notice of trespass
103 beyond the day the appeal is filed, pending a hearing and/or written decision.
104

105 (2) Exigent circumstances. For purposes of this chapter, "exigent circumstances" means any situation in
106 which the issuing city official/~~or~~ officer determines that a person presents an immediate and substantial
107 threat or danger to the health, safety, or welfare of another person. In such circumstances, an appeal shall
108 not stay the operation of the notice of trespass.
109

110 (3) Designated hearing panels. All appeals made under this chapter shall be heard by the public safety
111 committee of the city council, which will make an annual report to the city council on the number of
112 appeals.
113

114 (4) Procedure. When an appeal is filed, the designated hearing panel shall meet within ten (10) business
115 days to consider the appeal. If no hearing is requested, the designated hearing panel may consider any

written submissions as part of its decision. If a hearing is requested, the appellant must be provided at least three (3) business days' written notice of the date, time, and location of the hearing. The designated hearing panel shall allow oral and/or written testimony and evidence from the appellant and the issuing city official/~~or~~ officer. In reviewing the notice of trespass, the panel will utilize the preponderance of the evidence standard with the burden of proof on the charging official/officer or their representative. The designated hearing panel shall issue a written decision within ten (10) business days of the hearing. The designated hearing panel may extend the time period for hearing if the operation of the notice of trespass is stayed or if the appellant consents.

(5) Waiver requests. An individual who has received a notice of trespass may request a waiver from the issuing official/officer (or in the absence of that official/officer from another city official/officer authorized to issue the notice) in order to access the property for which the notice of trespass was issued for purpose of work, residence, access to government services, or the exercise of constitutionally protected activities. If that waiver is denied, an appeal may be made to the designated hearing panel. In addition, in the context of any appeal of a notice of trespass, the designated hearing panel shall also consider any waiver request from the individual appealing.

- (g) Enforcement. Once a notice of trespass has been issued, unless the notice has been stayed by receipt of an appeal or the notice has been overturned by a decision on appeal, a violation of the notice may be enforced pursuant to Section 21-45 (a civil violation) or 13 V.S.A. § 3705 (a criminal violation). Unless the notice of trespass was issued for conduct involving violence, harassment, or threats of physical harm to an individual, enforcement pursuant to 13 V.S.A. § 3705 may only commence with issuance of a citation and a request to leave the premises; however, arrest is permissible for refusal to leave the premises within a reasonable period after issuance of the citation.

Sec. 21-46 Disorderly conduct.

It shall be unlawful for a person who, with the intent to cause public inconvenience, or annoyance or recklessly creating a risk thereof:

- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or
- (b) Makes unreasonable noise; or
- (c) In a public place uses abusive or obscene language; or
- (d) Without lawful authority, disturbs any lawful assembly or meeting or persons; or
- (e) Obstructs vehicular or pedestrian traffic.

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may

be imposed for a violation of this section. The civil penalty may, at the discretion of the prosecuting official/~~officer~~, be eliminated or reduced upon the successful completion of a restorative or reparative justice program through the community justice program. In lieu of further process and prosecution, persons ticketed for violations of this section may pay a waiver penalty under the schedule set out below:

Waiver Penalty:

First offense: The waiver penalty shall be two hundred fifty dollars (\$250.00).

Second offense, within a six-month period: The waiver penalty shall be three hundred dollars (\$300.00).

Third offense or more, within a twelve-month period: The waiver penalty shall be four hundred dollars (\$400.00).

Each time that the violation occurs will constitute a separate violation of this section. Any city official/~~law enforcement~~ officer can enforce this section.

Sec. 21-47 Unlawful mischief.

It shall be unlawful for a person who, having no right to do so or any reasonable ground to believe that he has such a right, intentionally does damage to property of any value not exceeding two hundred fifty dollars (\$250.00).

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may be imposed for a violation of this section. The civil penalty may, at the discretion of the prosecuting official/~~officer~~, be eliminated or reduced upon the successful completion of a restorative or reparative justice program through the community justice program. In lieu of further process and prosecution, persons ticketed for violations of this section may pay a waiver penalty under the schedule set out below:

Waiver Penalty:

First offense: The waiver penalty shall be two hundred fifty dollars (\$250.00).

Second offense, within a six-month period: The waiver penalty shall be three hundred dollars (\$300.00).

Third offense or more, within a twelve-month period: The waiver penalty shall be four hundred dollars (\$400.00).

Each time that the violation occurs will constitute a separate violation of this section. Any city official/~~law enforcement~~ officer can enforce this section.

Sec. 21-48 City Hall Park.

(a) Prohibited activities. Notwithstanding other rules and regulations, the following activities are prohibited at City Hall Park and may be ticketed under this section.

(1) Disorderly conduct as defined by Section 21-46; ~~Any person who, with the intent to cause public inconvenience, or annoyance or recklessly creating a risk thereof:~~

~~a. Engages in fighting or in violent, tumultuous or threatening behavior; or~~

~~b. Makes unreasonable noise; or~~

~~c. In a public place uses abusive or obscene language; or~~

~~d. Without lawful authority, disturbs any lawful assembly or meeting or persons; or~~

~~e. Obstructs vehicular or pedestrian traffic.~~

(2) Unlawful mischief as defined by Section 21-47; ~~Any person who, having no right to do so or any reasonable ground to believe that he has such a right, intentionally does damage to property, private or public.~~

(3) Graffiti and defacement of property as defined by Section 21-29;

(4) Possession of open or opened intoxicating liquor as defined in 23 V.S.A. § 1200(4), except as permitted pursuant to a valid liquor license and/or an outdoor consumption permit for properly organized and supervised activities or events held within the limits of City Hall Park.

~~(4)~~ Possession of a regulated drug as defined in 18 V.S.A. § 4201(29).

(b) Enforcement.

(1) First offense. Any violation of any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of two hundred dollars (\$200.00) to a maximum fine of five hundred dollars (\$500.00). The waiver penalty for purposes of the municipal complaint (civil ticket) shall be two hundred dollars (\$200.00). The recipient of a municipal complaint for violation of this section (first offense) shall not be permitted within the City Hall Park for the balance of the day on which the alleged offense occurred.

(2) Second offense. Any violation of any provision of subsection (a) above by an individual who has previously violated any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of a minimum fine of three hundred dollars (\$300.00) to maximum fine

of five hundred dollars (\$500.00). In addition, the recipient of a municipal complaint for violation of this section (second offense) may be issued an order of no trespass prohibiting the recipient from entering the City Hall Park for a period of up to 90 days commencing immediately upon said issuance. The waiver penalty for purposes of the municipal complaint (civil ticket) second offense shall be three hundred dollars (\$300.00); payment of which shall also be deemed acceptance of the no trespass order. Both the fine and the no trespass order may, at the discretion of the prosecuting official/officer, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the community justice program.

- (3) Third and subsequent offense. Any violation of any provision of subsection (a) above by an individual who has on two (2) or more occasions violated any provision of subsection (a) above shall be deemed a civil offense and shall be punishable by a penalty of from four hundred dollars (\$400.00) to five hundred dollars (\$500.00). In addition, the recipient of a municipal complaint for violation of this section (third and subsequent offense) may be issued an order of no trespass prohibiting the recipient from entering the City Hall Park for a period of up to one (1) year commencing immediately upon said issuance. The waiver penalty for purposes of the municipal complaint (civil ticket) third or subsequent offense shall be four hundred dollars (\$400.00); payment of which shall also be deemed acceptance of the no trespass order. Both the fine and the no trespass order may, at the discretion of the prosecuting official/officer, be waived in whole or in part upon the successful completion of a restorative or reparative justice program through the community justice program.

Sec. 21-49 Church Street Marketplace District trespass authority.

(a) Purpose. The Burlington city council finds and declares that the following substantial government interests will be advanced by the ability to issue a no trespass order created by this section, based on conditions the police department and the Church Street Marketplace District commission have identified and confront in the Church Street Marketplace District on a regular basis:

- (1) The abatement or removal of nuisances determined to be against the public health, safety or welfare of citizens;
- (2) The protection of citizens from physical threats or injury and from damage to property;
- (3) The prevention of harassment and intimidation of any member of the public;
- (4) The prevention of violent crime;
- (5) The orderly control and safety of pedestrian, car and cart traffic on Church Street; and
- (6) The provision and maintenance of a safe, attractive environment in areas designed to attract tourist revenue.

(b) Findings. The substantial government interests identified in subsection (a) of this section are undermined by unlawful and inappropriate behavior in the Church Street Marketplace District. Such behaviors include, but are not limited to, disorderly conduct, unlawful mischief, the possession and consumption of intoxicating liquor, and the possession and use of regulated drugs.

Specifically:

- (1) Unlawful behavior within the Church Street Marketplace District diminishes this public asset and deprives citizens and visitors of its full use and enjoyment;
- (2) In addition to more serious criminal acts that threaten personal injury and property damage, a wide range of illegal disorderly behaviors can and often do transform the Church Street Marketplace District into an unwelcoming, unattractive and ultimately unsafe public space requiring increased expenditures for public safety and maintenance;
- (3) Laws intended to preserve and protect public spaces like the Church Street Marketplace District for the benefit of all people are effective only if those present on the space obey the law. The current criminal and civil penalties for violating these types of laws are frequently inadequate to deter the illegal behavior, to prevent its recurrence, or to provide for the removal of offenders from the public space;
- (4) Compliance with behavior laws within the Church Street Marketplace District will be enhanced by the immediate administrative sanction of removing offenders from the Church Street Marketplace District in addition to issuing tickets to them. For repeat offenders and for more serious offenses, exclusion for extended periods will further provide a necessary additional remedy to protect the public;
- (5) The failure to comply with these and other laws creates a public nuisance.

(c) Prohibited activities. Notwithstanding other laws, ordinances, rules and regulations, the following activities are prohibited within the Church Street Marketplace District and may result in a no trespass order authorized under this section.

- (1) Disorderly conduct as defined by Section 21-46;
- (2) Unlawful mischief as defined by Section 21-47;
- (3) Graffiti and defacement of property as defined by Section 21-29;
- (4) Possession of open or opened intoxicating liquor as defined by 23 V.S.A. § 1200(4), except as permitted pursuant to a valid liquor license and/or an outdoor consumption permit for properly

organized and supervised activities or events held within the limits of the Church Street Marketplace District;

(45) Possession of a regulated drug as defined in 18 V.S.A. § 4201(29).

(6) Offense of retail theft as defined by 23 V.S.A. §2575 from a business in the Church Street Marketplace District.

(d) Enforcement.

(1) First offense. Any person ticketed for a prohibited activity noted in subsection (c) of this section as a first offense may also be issued an order of no trespass, and will not be permitted within the Church Street Marketplace District for the balance of the day on which the alleged offense occurred.

(2) Second offense. Any person ticketed for a prohibited activity noted in subsection (c) of this section as a second offense may also be issued an order of no trespass prohibiting the recipient from entering the Church Street Marketplace District for a period of up to ninety (90) days, commencing immediately upon said issuance.

(3) Third and subsequent offense. Any person ticketed for a prohibited activity noted in subsection (c) of this section as a third or subsequent offense may also be issued an order of no trespass prohibiting the recipient from entering the Church Street Marketplace District for a period of up to one (1) year commencing immediately upon said issuance.

(4) Hearing procedure and staying of order of no trespass.

a. Recipients of an order of no trespass issued pursuant to subsections (d)(2) and (3) of this section may appeal said order to a hearing panel designated by the Church Street Marketplace commission pursuant to the procedure detailed below. Any such appeal shall stay the order of no trespass pending the hearing and written decision of the hearing panel.

b. Any individual subject to the trespass provisions of subsection (d)(1), (2), or (3) of this section may request in writing that a hearing panel of the Church Street Marketplace commission hold a public hearing for the purpose of challenging the issuance of the order of no trespass and/or to request a waiver to access the Church Street Marketplace District for purpose of work, residence, access to government services, the exercise of constitutionally protected activities, and/or for any other good reason as determined by a hearing panel.

c. Recipients shall have thirty (30) days from the date of issuance of an order of no trespass to request a hearing. Requests shall be sent to the executive director of the marketplace commission at 2 Church Street, Suite 2A, Burlington, VT 05401-4457.

d. If a hearing is requested, the hearing shall be scheduled within ten (10) calendar days of receipt of the request, and a written notice of the hearing shall be sent to the recipient at least seven (7) calendar days prior to the hearing.

e. The hearing panel shall consist of three (3) people designated by the Church Street Marketplace commission or its designee, and be comprised of one (1) representative from the business community, one (1) representative from the social services community, and one (1) representative from the general public.

f. The hearing panel shall allow for oral and/or written testimony and evidence from the recipient of the order of no trespass, the issuing city official/~~police~~-officer, and any other witnesses requesting to be heard.

g. The hearing panel shall issue a written decision within ten (10) calendar days of the hearing.

Resolution Relating to

SUPPORTING LGBTQIA+ COMMUNITY MEMBERS AND CONDEMNING TRANSPHOBIA

RESOLUTION 5.07

Sponsor(s): Councilors Magee, Paul,
Barlow, Carpenter, Traverse,
Bergman, Freeman, Hightower, Brandt
Introduced: 03/13/23
Referred to: _____

Action: adopted
Date: 03/13/23
Signed by Mayor: 06/27/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, violence and hate toward queer and transgender people is on the rise nationally and in
2 Vermont; and

3 WHEREAS, here in Burlington, a group of residents continues to target queer and transgender
4 community members, especially young people; and

5 WHEREAS, these residents spread hate through protests, aggressive stickering near our schools and
6 other public spaces, and on social media; and

7 WHEREAS, 378 anti-LGBTQIA+ bills have been introduced and are advancing in state legislatures
8 throughout the United States;¹ and

9 WHEREAS, across the country, these kinds of hateful acts are leading to a rise in violence toward the
10 LGBTQIA+ community, with higher rates of violence directed at trans community members; and

11 WHEREAS, in recent years, we have seen the tragic results of this kind of hate here in Vermont; and

12 WHEREAS, in 2022, Fern Feather, a transgender woman, was murdered in Central Vermont; and

13 WHEREAS, The Pride Center of Vermont had the front door of their office, a safe and welcoming
14 gathering space for all, smashed in a hateful act of vandalism and intimidation; and

15 WHEREAS, hate directed at LGBTQIA+ students and faculty in Burlington Schools poured in from
16 around the nation, when Fox News amplified hateful, transphobic messages related to a DEI presentation on
17 gender identity and pronouns; and

18 WHEREAS, hateful, transphobic protesters have targeted community events such as Burlington Pride
19 and the Outright Fire Truck pull, events that are meant to be welcoming, joyful, and supportive celebrations;
20 and

21 WHEREAS, in a show of solidarity, community members have come together to remove harmful,
22 transphobic stickers from public places; and

¹ <https://www.aclu.org/legislative-attacks-on-lgbtq-rights>

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

* * * * *

23 WHEREAS, Burlington Parks and Public Works staff has worked hard to come up with a plan for
24 addressing and tracking hateful stickers in our parks and on other City-owned property, including street signs;
25 and

26 WHEREAS, The Burlington School District has made a statement condemning these hateful acts and
27 pledging support to LGBTQIA+ students and staff; and

28 WHEREAS, the Burlington Community Justice Center has made a significant effort to bring
29 community members together and offer space to talk about the harms caused by these hateful acts; and

30 NOW, THEREFORE, BE IT RESOLVED that the City Council and the Mayor condemn these hateful
31 acts against trans community members; and

32 BE IT FURTHER RESOLVED that the City Council extends our unequivocal support to the
33 LGBTQIA+ community; and

34 BE IT FURTHER RESOLVED that the City Council expresses our gratitude for the work of those
35 community members who have come forward to support queer and transgender community members by
36 removing the harmful stickers; and

37 BE IT FURTHER RESOLVED that the City Council is committed to the City of Burlington's efforts
38 to begin observing Trans Day of Visibility annually on March 31st, through a city-wide, city-sponsored and
39 funded campaign, to include vocal support from the Mayor's Office affirming support for the LGBTQIA+
40 community, specifically the trans community; and

41 BE IT FURTHER RESOLVED that the City Council will work in collaboration with community
42 members and organizations and the City administration to develop a plan for ongoing activities to support and
43 amplify the voices of the LGBTQIA+ community, including days of action, flying pride flags on City
44 property, and organizing a speakers series; and

45 BE IT FURTHER RESOLVED that the City Council supports the continuation of tracking all
46 transphobic and other hate speech in an annually published report available to the public to ensure the ongoing
47 commitment to decreasing the amount of hate speech in our City; and

48 BE IT FURTHER RESOLVED that the City Councils urges Burlington's state legislative delegation to
49 look at current state hate crime statute to look to extend protections for schools and organizations that
50 advocate/support LGBTQ+ (and other minoritized communities) from hate motivated targeted crimes; and

51 BE IT FURTHER RESOLVED that the City Council's Ordinance Committee shall, in coordination
52 with the Burlington Police Department and the City Attorney's Office, examine Burlington's graffiti

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

Attest:

* * * * *

53 ordinance and consider changes that address continued defacement of public property, and graffiti that spreads
54 hateful and harmful messages.

55
56 JP/JD/Resolutions 2023/SUPPORTING LGBTQIA+ COMMUNITY MEMBERS AND CONDEMNING TRANSPHOBIA
57 March 9, 2023

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

BPD
Ordinance Committee

ORIGINAL

RESOLUTION RELATING TO

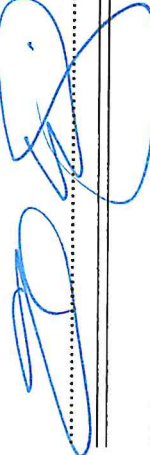
Supporting LGBTQIA + Community Members And Condemning Transphobia

Adopted by the City Council

March 13, 2023

 Clerk

Approved June 27, 2023

 Mayor

Attest:

Lori Olberg
Licensing, Voting and Records Coordinator

Vol. Page

* * * * *

21-29 Graffiti and defacement of property.

(a) *Findings and purpose.* This section seeks to help prevent the spread of graffiti and defacement of property, public and private. Graffiti and the defacement of property are destructive of the rights and values of property owners. They are aesthetic blights on the entire community. Graffiti and defacement of property are acts of vandalism, detrimental to the city, and are, therefore, public nuisances.

(b) *Definitions.*

(1) "*Graffiti*" means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, without being authorized to do so by the owner of the property or the owner's duly authorized agent.

(2) "*Graffiti implement*" means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

(3) "*Defacement*" means any application or causing the application to any surface of public or private property of paint, varnish, lead, crayon, wax, ink, dye or other substance, or the carving, chiseling, writing, or other such act of any mark, figure or letter on such property without being authorized to do so by the owner of the property or the owner's duly authorized agent.

(c) *Prohibited acts.* It shall be unlawful for any person to make graffiti or deface any surface of public or private property unless authorized by the owner of the property or the owner's duly authorized agent.

(d) *Penalties.*

(1) A violation of this ordinance is a civil offense and shall be punishable by a fine of five hundred dollars (\$500.00) with a waiver penalty of four hundred dollars (\$400.00). At the discretion of the prosecuting officer or city attorney, this penalty or a part thereof may be waived upon the successful completion of community service related to the elimination of graffiti and defacement.

(2) Notwithstanding subparagraph (1), above, a violation of this ordinance is a criminal offense and shall be punishable pursuant to Section 1-9(a) of this code if it can be proven that the defendant violated this section maliciously and with the intent to intimidate or harass another person because of, or in a way that is reasonably related to, associated with, or directed toward, that person's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disability, including, without limitation, in circumstances where the defendant has painted, drawn, depicted, or posted symbols or words on the property of the victim when the symbols or words historically or traditionally connote hatred or threats toward the person because of the person's membership in any of the foregoing classifications.

(3) As used in subparagraph (2), the term “person” may refer to a specific person who the defendant intended to intimidate or harass or more generally to any person within a classification of persons who the defendant intended to intimidate or harass.