



**Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR
REMOTELY via ZOOM**

When: Jul 1, 2024 11:00 AM Eastern Time (US and Canada)
Topic: Ordinance Committee Meeting

Please click the link below to join the webinar:

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Dial(for higher quality, dial a number based on your current location):

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+1 309 205 3325 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

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1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	1. Agenda
Department	
Type	
Recommended Action	

2. Adopt Draft Minutes from May 23

Subject	2.1. Adopt Draft Minutes from May 23
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	2. Adopt Draft Minutes from May 23
Department	Council and Board
Type	
Recommended Action	

3. Public Forum

Subject	3.1. Verbal Comments
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	3. Public Forum
Department	Council and Board
Type	

4. Trespass Ordinance Discussion (45 Minutes)

Subject	4.1. Trespass Ordinance Discussion
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	4. Trespass Ordinance Discussion (45 Minutes)
Department	Council and Board
Type	
Recommended Action	

5. Graffiti Ordinance Discussion (30 Minutes)

Subject	5.1. Graffiti Ordinance Discussion
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	5. Graffiti Ordinance Discussion (30 Minutes)
Department	Council and Board
Type	
Recommended Action	

6. Condo Conversion Introductory Discussion (15 Minutes)

Subject	6.1. Condo Conversion Introductory Discussion
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Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	6. Condo Conversion Introductory Discussion (15 Minutes)
Department	Council and Board
Type	
Recommended Action	

7. Any Other Committee Business

Subject	7.1. Any Other Committee Business
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	7. Any Other Committee Business
Department	Council and Board
Type	
Recommended Action	

8. Adjournment

Subject	8.1. Motion to adjourn
Meeting	July 1, 2024 - Ordinance Committee Meeting - Monday, July 1, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	8. Adjournment
Department	Council and Board
Type	
Recommended Action	

Ordinance Committee
Thursday, May 23, 2024 at 11:00AM
Remote via Zoom

DRAFT MINUTES

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

Staff Present: Erik Ramakrishnan (Assistant City Attorney), Erin Jacobsen (Mayor's Chief of Staff)

Public Present: Kelly Devine

Meeting called to order at 11:02 AM.

1.0 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

2.0 Adopt Draft Minutes from May 16, 2024

2.01 Adopt Draft Minutes from May 16, 2024

Motion to Table the Adoption of Draft Minutes from May 16, 2024.

Motion by Councilor Bergman, seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Unanimous

3.0 Public Comment

Kelly Devine: I wanted to thank councilors for the discussion on the gross receipts ordinance at the last council meeting. The draft changes would be a substantial tax increase on lodging. I would like to see language that connects the tax increase to public safety initiatives. I am concerned about the impact of this tax increase on the downtown economy. Travelers from larger metro areas seem to be less effected compared to a visitor from another place in Vermont or upstate New York. There are many other choices for lodging in South Burlington and this would put hotels that host events or conferences at a disadvantage. I think it makes sense to have a one year sunset on this tax or at least have a review after one year.

Councilor Shannon asked Kelly Devine if she had any data on the issue of lodging taxes. Kelly Devine said she is working on getting the data from the State, but the data is always lagging.

4.0 Gross Receipts Ordinance Discussion

Councilor Bergman agreed with Kelly Devine's suggestion of having a review of the tax changes. He said that the review should be put into the budget resolution rather than the ordinance itself. He also said that the monies from the new tax should go to public safety.

Councilor Brown McKnight said she would like a sunset on the gross receipts increase added into the ordinance.

Attorney Ramakrishnan shared the draft ordinance changes with the Committee. *The draft ordinance changes are available in the meeting agenda packet.* Attorney Ramakrishnan explained that the opening paragraphs provide a basic summary of the changes and the legislative history for the ordinance.

Councilor Shannon asked about Short Term Rental (STR) taxes. Attorney Ramakrishnan said that STRs fit into their own category and pay the higher rate of 9%. That money has been dedicated to a specific purpose. Councilor Shannon said she would be interested in having the STR taxes also go into the general fund.

Councilor Bergman said he would like to hear more about STR taxes, but the ordinance in front of the Committee needs to be put forward to the City Council on June 3rd.

Councilor Shannon said she added an edit to the last sentence of Section 1 of the draft ordinance to indicate that the tax increase would focus the funds towards public safety. Attorney Ramakrishnan said it would be easier to have that focus laid out in a budget resolution as resolutions are easier to amend than ordinances.

Councilor Bergman said it would be inappropriate to splinter the tax revenues. He said he cannot support the current draft ordinance and wondered what the Mayor or CAO thought about the sunset on the hotel tax increase. He said that he would like to have a sunset on the lodging and meals tax increases. Councilor Bergman noted that this ordinance change was part of Mayor Weinberger's attempt to close the budget gap.

Councilor Shannon said that Mayor Weinberger had expressed interest in having a sunset. Councilor Bergman said he had not heard anything about that in a public meeting.

Councilor Shannon said she would be fine having a sunset on the tax increase in both the ordinance and budget resolution. Councilor Bergman agreed so long as the sunset was clearly only for the 2% increase on hotels. He said he doesn't want there to be confusion that the sunset might also apply to the current 2% tax on hotels. He is in favor of keeping the current underlying 2%. Councilors Shannon and Brown McKnight both agreed.

Councilor Shannon said she would like the current draft changes to the ordinance to be kept, but have the sunset clearly communicated to the Council. She is concerned that, because there is such a short timeline to adopt this ordinance, there could be more conversations about what could go into the budget resolution instead of the ordinance. She wants to get the ordinance warned quickly so the public can comment on it.

Councilor Bergman said he would support a memo coming from the Committee that lays out the discussion and potential amendments, so long as the memo makes clear that he does not support the underlying policy as it stands.

Attorney Ramakrishnan said that he could change the draft language to place the 2% hotel tax increase under the new Sec. 21-31 (II)(G) that lays out the temporary rate increases. This would make clear that the 2% increase on hotels will sunset in one year just as the other gross receipts taxes in that section do. Councilors Shannon and Bergman agreed to that suggestion.

Councilor Shannon asked Attorney Ramakrishnan to draft amendment language that earmarks the funds from the increase to go to public safety. This amendment would not be included in the ordinance, but could be added as an amendment once the ordinance goes to the full Council. Councilor Brown McKnight agreed that having the language ready would be helpful.

Councilor Bergman said he was fine having some further amendment language come from the City Attorney's Office for consideration, but he would prefer if the draft ordinance did not come from the Committee. He said councilors Shannon and Brown McKnight could sponsor the ordinance instead of the Committee.

Councilor Shannon said she doesn't want to approve the current language as a Committee without language about the earmark for public safety. She said that the councilors have yet to hear about the budget from the police department so there are still unknowns.

Erin Jacobsen (Mayor's Chief of Staff) said she would flag the sunset for the hotel tax issue for the Mayor. She continued that the earmark for public safety language would have to include programs beyond just enforcement. She said that CAO Schad calculated that the tax increase would yield about a million dollars, but Chief of Police Jon Murad said it is unlikely there will be any hiring of additional officers in FY25.

Councilor Shannon summarized that the councilors still need more information on the upcoming budget, but that there is consensus on having a one year sunset on the tax increase. She said she would also like to have that language about the earmark for public safety drafted by the City Attorney's Office so it is ready to be added in the full Council.

Councilor Shannon asked if the Committee is supportive of her amendment adding that the Clerk/Treasurer's Office would submit quarterly reports to the Council on the revenues generated by the gross receipts ordinance. Councilor Bergman was not supportive of this amendment. He said that such language should not be in ordinance.

Motion to amend the draft ordinance to include the language "The Clerk/Treasurer's Office shall provide a quarterly report to the City Council on the amount of revenues generated by the gross receipts taxes set forth in Section 1 above."

Motion by Councilor Shannon, seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Councilors Shannon and Brown McKnight

No: Councilor Bergman

Councilor Shannon said she will send a memo to the Council that describes the language not included in the current draft ordinance.

Motion to refer the draft ordinance language back to City Council without a recommendation from the Ordinance Committee.

Motion by Councilor Bergman, seconded by Councilor Shannon.

Final Resolution: Motion Passes

Yes: Unanimous

5.0 Any Other Committee Business

No other Committee business.

6.0 Adjournment

Motion to adjourn by Councilor Bergman, without objection.

Final Resolution: Motion Passes

Meeting was adjourned at 12:01 PM.

1

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: _____

Public Hearing Dates: _____

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

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

First reading: _____

Referred to: _____

Rules suspended and placed in all

Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

2

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

4

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

7

8 **ARTICLE I. In General**

9

10 **Secs. 21-1 – 21-44** As written.

11

12 **Sec. 21-45 Unlawful trespass.**

13

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

16

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

21

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

23

24 A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A.
25 section 1974a and section 1977 et seq. A civil penalty of not more than five hundred dollars (\$500.00) may
26 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).

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 law enforcement officer, community service officer, community support liaison, urban park rangers, parks patrol, the city's contracted private security, or any other city official authorized to enforce the city's ordinances, can enforce this section.

The Chief of Police or their designee may enter into an agreement with individual commercial property owners and/or businesses leasing a commercial property regarding notice and enforcement of trespass. Such agreement shall be pursuant to a policy of the Police Department approved by the Police Chief and shall be subject to review and approval as to legal form by the City Attorney's Office.

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

- (a) Purpose. The purpose of this section is to enable a city official in charge of city property to issue a notice of trespass and enforce that notice against an individual whose behavior is dangerous, illegal, or unreasonably disruptive, while recognizing the rights of individuals to engage in constitutionally protected activities on public or city-owned property.
- (b) City official/officers authorized to issue notice of trespass. The city council hereby expressly delegates its authority to issue a notice of trespass to any city official who is in charge, at the time of issuance, of the city property for which the notice of trespass is issued and to any sworn officer, community service officer, or community support liaison of the Burlington police department or the City's urban park rangers, parks patrol, contracted private security, or any other city official authorized to enforce the city's ordinances, in the exercise of their official duties (hereinafter "official/officer").
- (c) Issuance of notice of trespass – Initial conference. If an individual violates any city ordinance, rule or regulation, or State law, or within a public building fails to follow the lawful directive of a city official/~~or police~~-officer authorized under subsection (b) of this section, that official/officer may issue a notice

of trespass for a violation which was committed while on or within a city facility, building, or outdoor area, including a municipal park, for the specific property where the violation occurred, excluding a right-of-way. Prior to issuance of the notice of trespass, the issuing official/officer must ensure that the person to whom a notice of trespass will be issued has been informed of the basis for the notice of trespass and has been given an opportunity and reasonable amount of time to change or address the underlying conduct – that is, a verbal warning must have been issued. No verbal warning is required if the reason for the trespass is an accusation of serious harmful conduct such as arson, assault, harassment or a threat of such conduct. Notices of trespass may be issued at the Fletcher Free Library as provided in Section 21-43.

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

(e) Length of notice of trespass.

(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~~

~~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;

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

(6) Public urination and/or defecation as defined by Section 21-24.

(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 13 V.S.A. §2575 from a business in the Church Street Marketplace District;

(7) Public urination and/or defecation as defined by Section 21-24.

(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.

1-9 General penalty; continuing violations.

(a) Criminal violations. Except as otherwise expressly provided, however, whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be prosecuted as a criminal offense and shall be punished by a fine not less than fifty dollars (\$50.00) and not exceeding five hundred dollars (\$500.00). Each day any violation of any provision of this Code or any ordinance shall continue shall constitute a separate violation.

The court before which a conviction shall be had shall order any continuing violations to cease, to be removed, or to be abated. A person convicted may also be found liable for any damages sustained by the city or any other person as a direct result of the ordinance violation and may be ordered by the court after hearing to pay restitution as a part of the sentence.

(b) Civil offenses. Selected provisions of the Code of Ordinances have been specifically designated as carrying a civil penalty. Violations of such ordinances shall be enforced as provided by state law and as provided herein. Upon a determination that a civil ordinance violation has occurred, those municipal officials authorized by the city to enforce civil ordinance violations shall issue a "municipal complaint" in the form provided by the court at 24 V.S.A. § 1977. The municipal official issuing the complaint shall appear to represent the city in any contested case before the traffic and municipal ordinance bureau or other forum provided by law. Unless otherwise provided in this Code, the fine for a violation of an ordinance designated as a civil offense shall be not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). The waiver penalty for purposes of the municipal complaint (civil ticket) shall be fifty dollars (\$50.00) for each offense unless otherwise specifically provided in this Code.

(c) First offense civil, second offense criminal. Selected provisions of the Code of Ordinances have been specifically designated as carrying a civil penalty for a first offense in any six-month period and a criminal penalty for a second and subsequent offense in the same six-month period.

(1) First offense: A first offense by a person during any six-month period shall be deemed a civil ordinance violation and shall be punishable by a fine of from fifty dollars (\$50.00) to five hundred dollars (\$500.00). The waiver fine shall be fifty dollars (\$50.00). Any law enforcement officer may issue a municipal complaint ticket for such offense.

(2) Second and subsequent offenses: A second offense of the same ordinance during a six-month period shall be deemed to be a criminal offense and shall be punishable by a fine from one hundred dollars (\$100.00) to five hundred dollars (\$500.00). Each subsequent offense of the same ordinance shall be deemed to be a criminal offense and shall be punishable by a fine of from two hundred dollars (\$200.00) to five hundred dollars (\$500.00).

(3) Intent of enforcement under section 1-9(c). It is the intent of this subsection to preserve the public health, safety and welfare by prohibiting and punishing repeated violations of these ordinances. To that end, the city attorney's office will, in their discretion and when they deem it appropriate, explore all options available to the city, in addition to prosecution and as alternatives to prosecution, which will achieve the stated intent of this section.

(d) Issuance of ordinance violation ticket. Any law enforcement officer who cites an accused for violation of any city ordinance which is punishable as a criminal offense shall issue a "Notice of Ordinance Violation Ticket," unless instructed by the city attorney, an assistant city attorney or city grand juror to issue a standard district court citation.

The ticket shall be a citation to appear in district court as contemplated by V.R.Cr.P. 3 and shall contain the name of the accused, the ordinance(s) violated, the date and time to appear in district court, and any other information required by law for a valid citation.

The ticket shall also contain a "Notice of Ordinance Violation" section which shall allow and inform the accused of the following:

(1) The option for the accused to waive process and prosecution by paying a waiver fee of between fifty dollars (\$50.00) and two hundred dollars (\$200.00) for each count to the police department within seventy-two (72) hours of issuance.

(2) That upon full and timely payment of the waiver fee the accused shall not be required to appear in court and the citation portion of the ticket shall be null and void.

(3) That if the accused elects not to make full and timely payment of the waiver fee, he or she shall appear in court on the date and time indicated on the ticket for prosecution.

Should the waiver not be exercised and prosecution be had, this subsection in no way alters or pre-empts any fine, penalty or other remedy as provided by this ordinance.

(e) Public nuisances.

(1) Any property within the city found to be maintained in violation of any provisions of this code or which in any other way endangers the health, safety and welfare of the residents of the city is hereby declared to be a public nuisance and may be ordered abated in any manner provided by law.

(2) Because of the effect of such conduct on the whole community, it shall also constitute a public nuisance to do anything declared by this Code to be a civil or criminal offense maliciously and with the intent to intimidate or harass another person because of, or in any manner reasonably related to, associated with, or directed toward, that person's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, mental, physical, or sensory disability, or service in the U.S. Armed Forces or the National Guard. As used in this paragraph, the term "person" may refer to a specific person or more generally to any person within a classification of persons who the individual committing the offense intended to intimidate or harass. The City Attorney on behalf of the City or any individual resident of the City aggrieved by a public nuisance as defined in this paragraph may petition the superior court to enjoin the conduct if there is a reasonable likelihood the conduct will be repeated. A prevailing petitioner shall be entitled to recover reasonable attorneys' fees and costs. The respondent shall be entitled to recover reasonable attorneys' fees and costs if the court finds that the action was wholly without merit and brought with a bad faith intent to cause unwarranted annoyance, embarrassment, oppression, or expense.

(Ord. of 9-29-82; Ord. of 12-12-83; Ord. of 9-8-86; Ord. of 6-24-91; Ord. of 1-9-95; Ord. of 6-22-98; Ord. of 9-14-98)

Charter reference—Penalty for violating ordinances, § 50; city council authorized to provide penalties, § 53; liability of persons violating ordinances, § 54.

State law reference—Authority of municipality to define public nuisance and to provide for penalty for violation of any ordinance, 24 V.S.A. § 2291(14) and (15).

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. 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.

(e) To encourage and facilitate enforcement, the city shall maintain and advertise an electronic mail address or similar electronic means by which members of the public may provide photographs, video footage, or information to the police department about violations of this section and the identities of responsible parties. Such system shall entail direct electronic communication with the police

department and not the posting of information online and readily available to the public.

CITY OF BURLINGTON

ORDINANCE 6.06

Sponsor: Councilors Shannon,
Traverse, Brown McKnight
Public Hearing Dates: _____

In the Year Two Thousand Twenty-Four

First reading: 06/03/24
Referred to: Ordinance Committee

An Ordinance in Relation to

CHAPTER 18 HOUSING ARTICLE V. REGULATION OF
CONVERSION OF RENTAL HOUSING TO CONDOMINIUMS
OR COOPERATIVES

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 18, Article V, of the Code of Ordinances of the City of Burlington be and hereby is amended
by amending Section 18-300, Statement of purpose; 18-303, Definitions; 18-304, Notice to tenants; deleting
Section 18-306, Application fee; and Section 18-307, Condominium conversion fee, thereof to read as
follows:

18-300 Statement of purpose.

The intent and purpose of this article is as follows:

- (1) To support the retention of rental housing in the city;
- (2) To prevent large scale displacement of low-and moderate-income persons;
- (3) To mitigate the impact on tenants displaced or threatened by displacement by the conversion of rental housing to condominiums or cooperatives;
- (4) To mitigate the impact of such displacement on the city's housing market;
- (5) To provide opportunities for tenants and/or public entities to purchase rental housing in order to maintain perpetual affordability of that housing;
- (6) To provide broad opportunities for persons to rent or own housing that will be perpetually affordable;
- ~~(7) To provide funds to replace low-and moderate-income housing lost through conversion of rental housing to condominiums and cooperatives;~~
- ~~(7)~~ (8) To promote the rehabilitation and construction of housing for low-and moderate-income persons; and
- ~~(9)~~ (8) To follow recommendations of the Burlington Affordable Housing Task Force regarding the problems created by the conversion of rental housing to condominiums or cooperatives; and
- ~~(9)~~ (10) To expand on existing Vermont law related to conversions to address specific concerns of the city and its citizens and provide special benefits to existing tenants, especially elderly and disabled people.

(Ord. of 3-30-87)

CHAPTER 18 HOUSING ARTICLE V. REGULATION OF
CONVERSION OF RENTAL HOUSING TO CONDOMINIUMS OR
COOPERATIVES

18-301 Authority and applicability.

This article is enacted under the specific authority granted to Vermont towns and cities by 24 V.S.A. § 2293 and is applicable to the conversion of rental housing in the City of Burlington.

(Ord. of 3-30-87)

18-302 Exemptions.

(a) This article shall not be applicable to single-family homes and duplexes.

(b) This article shall not be applicable to properties that meet all of the following requirements:

(1) land tract with ten (10) or fewer housing units;

(2) a deed restriction making at least twenty-five (25) per cent of the housing units affordable to low income tenant households; and

(3) located in United States Census Bureau tract that contains less than fifty (50) per cent home ownership.

(c) This article shall not be applicable to short term rentals.

(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07; Ord. of 6-27-22)

18-303 Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

~~Application fee means a fee of twenty-five dollars (\$25.00) per residential rental unit proposed to be converted to a condominium or cooperative. The application fee shall be paid to the city, and the proceeds from this fee shall be used by the city for the specific purpose of administering this article. The amount paid as the application fee shall be deductible from the amount due as the impact fee if the conversion actually takes place.~~

Certified tenant organization means a bona fide association of resident tenants of a rental property, as certified by the community and economic development office. To receive such certification, the tenant organization of a property having three (3) to ten (10) rental units must represent at least fifty (50) per cent of the units occupied by tenants who have lived in their unit for more than ninety (90) days; the tenant organization of a property having more than ten (10) units must represent at least thirty (30) per cent of the units occupied by tenants who have lived in their unit for more than ninety (90) days.

~~Condominium conversion fee means a four (4) per cent fee on the actual sale price of residential units converted from rental housing to condominium or cooperative ownership. The condominium conversion fee is due at the time of property transfer of each individual residential unit prior to the recording of the deed or the proprietary lease for the transfer with the city clerk. The condominium conversion fee applies only at the time of the original conversion of the residential unit to a condominium or cooperative and not to any subsequent sale or transfer of the condominium or cooperative unit.~~

Conversion means a change in character of residential real property from a rental to an ownership basis. A condominium, stock cooperative or similar arrangement shall be deemed such a change in character of ownership.

Designated housing agency means a public entity or a 501 (c)(3) tax-exempt, nonprofit corporation whose purpose is creating or preserving housing for low-and moderate-income persons. The city's designated housing agency or agencies shall be designated by the city council.

Disabled tenant means a tenant who has a physical or mental impairment which restricts one or more major life activities, including functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.

Elderly tenant means a tenant who is sixty-two (62) years of age or older or the surviving spouse of such a tenant who is at least fifty (50) years of age.

Low-income tenant household means a household having an income not exceeding eighty (80) per cent of median income for area of residence as set forth in regulations promulgated from time-to-time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Moderate-income tenant household means a household having an income not exceeding one hundred ten (110) per cent of median income for area of residence as set forth in regulations promulgated from time-to-time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Notice to tenants means the written notice to vacate or purchase a residential unit that a landlord is required to send by certified and regular mail to the current tenants of any rental property that is slated for conversion.

(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07)

18-304 Notice to tenants.

(a) When an owner of rental housing decides to convert that housing to condominium or cooperative ownership, the owner shall give to each tenant the following minimum written notice to vacate or purchase the unit: ~~Four-Two (24)~~ years to elderly and disabled tenants; ~~two-one (12)~~ years to all other tenants. The burden shall be on the tenant to prove that ~~he or she~~ they ~~qualifies~~ qualify as meeting the definition of "elderly" or "disabled" as defined in this article.

(b) The notice shall state that the rental housing is to be converted to condominium or cooperative ownership. It shall set forth generally the rights of tenants and certified tenant organizations under this article and the Vermont statute related to conversions (27 V.S.A. section 1331 et seq.). The notice shall be given by certified mail, return receipt requested, at the address of the housing unit or any other mailing address provided by the tenant. A copy of the notice shall also be sent by regular mail to the address of the housing unit or any other mailing address provided by the tenant. Failure to give notice as required by this article and the Vermont statute is a defense to an action for possession.

(c) During the notice period, a tenant ~~may not be required to vacate~~ terminated except for a reason specified in subsection (a) or (b) of Section 4467 of Title 9 of Vermont Statutes Annotated.

(d) During the notice period, rent increases shall be limited to an amount which reflects reasonable profits, actual increased costs of maintenance and operation of the housing unit subject to conversion. Costs associated with the proposed conversion are not a permissible basis for a rent increase.

(e) After receipt of the notice, prescribed in paragraph (a) above, a tenant may terminate the rental agreement upon thirty (30) days' written notice to the owner.

(f) Nothing in this section permits termination of a written lease by an owner in violation of its terms.

(g) The notice requirements imposed by this article shall not affect the right of an owner to transfer ownership interests in housing units which are not subject to those requirements or as to which the notice period has expired.

(h) The notice period shall end ~~four-two (24)~~ years after the receipt of the written notice for elderly tenants, or ~~two-one (12)~~ years after the receipt of the notice for all other tenants, or when the existing lease ends, whichever is later.

(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07)

18-305 Right of tenant organizations, public entities, nonprofit corporations, and individual tenants to purchase.

(a) A certified tenant organization or the City of Burlington or the city's designated housing agency shall have the first right to purchase any rental housing that is proposed to be converted to condominium or cooperative ownership.

(b) This first right to purchase in a certified tenant organization, the city or its designee goes into effect at the time the first notice to tenants required by this article is issued by the owner. A copy of all such notices shall be sent to the certified tenant organization, the city and the city's designated housing agency or agencies. This first right to purchase shall be a prior right to the right of an individual tenant to purchase his or her individual unit described in paragraph (i) below.

CHAPTER 18 HOUSING ARTICLE V. REGULATION OF
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COOPERATIVES

(c) At the request of the certified tenant organization, the city or the city's designated housing agency, the owner shall provide within seven (7) working days of the request the following materials:

(1) A copy of any bona fide contract for sale which already exists between the owner and a third party;

(2) A rent schedule for the housing units;

(3) Operating expenses and income for the property for the previous two (2) years;

(4) List of capital expenditures for the previous five (5) years;

(5) Floor plans of the housing units and any common areas, if available; and

(6) A list of any outstanding mortgages or liens against the property.

(d) The parties which have a first right to purchase the property have ninety (90) days to sign a purchase and sale agreement with the owner, contingent upon the prospective buyer's ability to obtain financing. If the owner has not provided the information listed in paragraph (c) above to the certified tenant organization, the city or the city's designated housing agency within the specified seven (7) working days, each day's delay shall be added to this ninety-day period. The city or its designated housing agency may enter into such an agreement if and only if a certified tenant organization does not choose to do so.

(e) The sale price of the property shall be set either by a bona fide contract of sale which already exists with a third party at the time of the notice to tenants or by an appraisal process which has both the owner and prospective buyer commissioning an independent appraisal and a third appraiser reviewing the two (2) appraisals if the two (2) parties cannot agree on a price or the two (2) original appraisals are more than ten (10) per cent apart.

(f) As part of a purchase and sale agreement, an owner may require a deposit of earnest money by the certified tenant organization, the city or its designated housing agency. The owner shall not require an earnest money deposit which is more than five (5) per cent of the total purchase price, nor can the owner require this deposit to be nonrefundable.

(g) After signing the purchase and sale agreement, the prospective buyer shall have an additional one hundred eighty (180) days to obtain financing and to settle.

(h) If the first right to purchase the rental housing is not exercised by the certified tenant organization, the city or the city's designated housing agency, the owner is free to proceed with the conversion of the property to condominium or cooperative ownership subject to the provisions of this article, the city's zoning ordinance and Vermont statutes.

(i) After the time period for the certified tenant organization, the city or the city's designated housing agency to exercise its first right to purchase expires, individual tenants in housing units proposed to be converted to condominiums or cooperatives shall have the ninety-day exclusive right to purchase their individual unit, the right to be offered and to accept comparable housing, and the right to receive relocation costs as provided in 27 V.S.A. sections 1334, 1335 and 1336. The additional protections offered to tenants by 27 V.S.A. sections 1337, 1338 and 1339 are also specifically protected by this article.

(Ord. of 3-30-87)

~~18-306 Application fee.~~

~~(a) An application fee of twenty-five dollars (\$25.00) per rental unit proposed to be converted by an owner to condominium or cooperative ownership shall be payable to the city at the time the original notices to tenants are issued by the owner. The amount of the application fee may be adjusted as necessary by the city council.~~

~~(b) This fee is for the specific purpose of covering the cost of administering this article by the city.~~

~~(c) The application fee shall be nonrefundable, but shall be deductible from any impact fee which shall be due if the conversion takes place.~~

~~(Ord. of 3-30-87)~~

~~18-307 Condominium conversion fee.~~

~~(a) If a conversion of rental housing to condominium or cooperative ownership occurs, the seller of the units shall pay to the city a condominium conversion fee of four (4) per cent of the actual purchase price of each unit, assuming this purchase price is based upon the fair market value of the unit as determined by a certified appraiser. There shall be no reduction in this fee for closing or rehabilitation costs.~~

~~(b) The condominium conversion fee shall be paid prior to the recording of the deeds or proprietary leases for the transfer of the housing units.~~

~~(c) Prior to the recording of the deeds or proprietary leases for any transfer of the housing units, the seller shall provide documentation to the city that the notice requirements have been met, and that the first right of purchase processes set out in this article have been followed.~~

~~(d) The city shall certify that the article has been complied with and that the condominium conversion fee has been received prior to the recording of the deed or proprietary lease for the transfer of the property.~~

~~(e) The condominium conversion fee applies to the conversion from rental housing to condominium or cooperative ownership only and not to any subsequent sale(s) of the condominium or cooperative unit.~~

~~(f) The proceeds from the condominium conversion fee shall be paid into a trust fund established by the city council for the promotion, retention and creation of low and moderate income housing in the city and for the accomplishment of the goals set out in the statement of purpose of this article.~~

~~(g) The condominium conversion fee provision shall not apply to the acquisition of and conversion to condominium or cooperative ownership of rental housing by the certified tenant association, the city or the city's designated housing agency. Also, the condominium conversion fee provision shall not apply to sales of individual condominium or cooperative units to the tenant who resided in such unit at the time that the notice required by section 18-304(a) was given.~~

~~(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07)~~

18-3068 Circumventing of this article.

An owner shall not attempt to circumvent the provisions of this article; nor shall any person willfully cause a tenant to vacate a dwelling unit or to be evicted from the unit without good cause in contemplation of conversion before the issuance of the notice prescribed in section 18-304(a).

(Ord. of 3-30-87)

18-3079 Penalty; civil remedies.

(a) It is hereby declared that any person who is found guilty of violating any provision of this article shall be deemed to have committed a civil ordinance violation which shall be punishable by a fine of not less than two hundred (\$200.00) dollars and not more than five hundred (\$500.00) dollars, and such violation shall be abated as a nuisance. Each day of such violation shall constitute a separate offense.

(b) In addition, any person who is injured as a result of a violation of this article may seek to recover damages and other just relief as contemplated by Section 54 of the Charter of the City of Burlington. Also, the City of Burlington may bring an action for equitable relief in the Chittenden Superior Court to restrain actual or threatened violations of this article as contemplated by Section 49 of the Charter of the City of Burlington.

(Ord. of 3-30-87; Amend. of 1-8-07, eff. 2-14-07)

18-30810 Severability.

The provisions of this article shall be regarded as severable and should any portion thereof be held invalid, such invalidity shall not affect any other portion of such article.

(Ord. of 3-30-87)

18-309~~11~~ Additional regulations to administer this article.

The city council shall have the authority to promulgate additional regulations if necessary to administer the provisions of this article.

(Ord. of 3-30-87)

18-31~~02~~ Relocation costs.

(a) The owner shall pay the actual documented cost of relocation, not to exceed ~~one-two~~ thousand dollars (\$~~21~~,000.00), to any tenant entitled to receive notice under section 18-304 who does not purchase the unit which he or she occupies or another unit in the same building or buildings.

(b) Relocation costs shall be payable within ten days after the date the tenant vacates the unit; provided, however, that no tenant is eligible for relocation costs unless:

(1) all rent due and payable has been paid by the tenant prior to the date on which the unit is vacated; and

(2) the tenant has voluntarily vacated the unit on or before the expiration of half the applicable notice period.

(Amend. of 1-8-07, eff. 2-14-07)

18-31~~13~~—18-399 Reserved.

* Material stricken out deleted.

** Material underlined added.