



Wednesday, August 14, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM

When: Aug 14, 2024 11:00 PM Eastern Time (US and Canada)
Topic: Ordinance Committee Meeting

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1. Agenda

Subject

1.1. Motion to amend/adopt agenda

Meeting

August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 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 8/5

Subject	2.1. Adopt Draft Minutes from 8/5
Meeting	August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	2. Adopt Draft Minutes from 8/5
Department	Council and Board
Type	
Recommended Action	

3. Public Forum

Subject	3.1. Verbal Comments
Meeting	August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 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. Police Oversight Ordinance Discussion

Subject	4.1. Police Oversight Ordinance Discussion
Meeting	August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	4. Police Oversight Ordinance Discussion
Department	Council and Board
Type	
Recommended Action	

5. Condo Conversion Discussion

Subject	5.1. Condo Conversion Discussion
Meeting	August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	5. Condo Conversion Discussion
Department	Council and Board
Type	
Recommended Action	

6. Any Other Committee Business

Subject	6.1. Any Other Committee Business
Meeting	August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall 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	August 14, 2024 - Ordinance Committee Meeting - Wednesday, August 14, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	7. Adjournment
Department	Council and Board
Type	
Recommended Action	

**Ordinance Committee
Monday, August 5, 2024
Sharon Bushor Conference Room
at City Hall or Remote via Zoom. Burlington, Vermont
DRAFT MINUTES**

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

Staff Present: Kim Sturtevant (Assistant City Attorney), Erik Ramakrishnan (Assistant City Attorney)

Public Present: *None.*

Meeting called to order at 11:18 AM.

**1. Adopt the Agenda
1.01 Adopt the Agenda**

Motion to Adopt Agenda as is.

Motion by Councilor Bergman, Seconded by Councilor Brown McKnight

Final Resolution: Motion Passes

Yes: Unanimous

**2. Adopt Draft Minutes
2.1 Adopt Draft Minutes from July 18**

Motion to Adopt the Draft Minutes from July 18.

Motion by Councilor Bergman, Seconded by Councilor Brown McKnight

Final Resolution: Motion Passes

Yes: Unanimous

2.2 Adopt Draft Minutes from July 22

Motion to Adopt the Draft Minutes from July 22.

Motion by Councilor Bergman, Seconded by Councilor Brown McKnight

Final Resolution: Motion Passes

Yes: Unanimous

**3. Public Forum
3.1 Verbal Comments**

No members of the public present in-person or online.

4. Police Oversight Ordinance Discussion (30 Minutes)

Councilor Shannon laid out the goal for the new independent panel on police oversight: “To create a committee that is trusted and perceived as fair by both the public and the police department to greatest extent possible.”

Councilors shared some important notes and ideas they received while discussing the potential membership of the panel with the public:

- Members should be from outside of the community to limit bias
- Members should be hired professionals with contracts
- Members should have a solid background in how policing works
- Members could be willing but random voters and ask to serve on panel—chosen like jurors from a pool
- Panel is a “binding” arbiter between the Chief of Police and the Police Commission so member should be agreed to by both (Councilor Bergman said the panel is not currently established in this way)
- Members could be selected from current Police Commissioners
- Members should be from the Burlington general public
- Members should represent diversity of age, economic status, gender, areas of the city, etc.
- Members should not come from a policing background
- Panel could be three hired independent arbiters and paid \$1,000 per day
- Panel members should be compensated
- Pay one individual contractor
- Panel should include representatives from the business community, crime victims, etc.
- One member could be someone from police academy who is not from Burlington
- Panel should include representation from both police and social justice groups
- One member could be a retired police officer, retired public defender, or retired criminal court judge
- One member could be the City’s HR Director
- One member should be a subject matter expert depending on the context of the allegations
- Members should be residents of the City of Burlington regardless of immigration status
- At least one person with lived experiences—houseless, mental health issues, domestic violence, people who have had interactions with criminal justice system
- Membership should include BIPOC or marginalized communities to have diversity of racial or national origin
- Membership should be inclusive of gender diversity
- Representation from Church St. Marketplace Commission

Councilors shared qualifications and disqualifications they heard from members of the public:

Potential qualifications:

- City council president
- Politically neutral/balanced

- City resident
- Registered to vote in Burlington
- Have to be fair and have history that demonstrates that they can properly demonstrate discretion
- Some members from Burlington, not all
- In depth understanding of policing
- Support policing as part of a justice system
- Do not have strong political ideologies that would drive them in one or another direction
- Live in Burlington for at least 5 years
- Understanding how important and difficult a police officer's job is
- In depth knowledge of HR practices
- People who have been in police dept., mayor's office, commissions, city employees
- Demonstrated history of working to improve Burlington
- Subject matter expert

Potential disqualification:

- Current law enforcement officials
- People who have been in police dept., mayor's office, commissions, city employees

5. Trespass Ordinance Discussion (30 Minutes)

Attorney Sturtevant explained the history of the current policy of Burlington's police officers only enforcing trespass notices but not issuing them on behalf of private property owners. She continued that the Committee could put forward a resolution asking the BPD to clearly codify their current policy so the public can understand it.

Councilor Bergman said the current system is an overreaction from historic events and the policy should change to allow BPD to issue a notice of trespass on behalf of a private property owner.

Councilor Shannon said it makes sense to draft the new policy expectations and let the BPD weigh in on the changes. Councilor Brown McKnight agreed that a policy change is necessary.

Councilor Bergman added that with this policy change there needs to be a process to ensure that our officers are only engaging in defensible and reasonable practices and not engaged in discrimination in any way. The City should be careful not to engage in discriminatory practices on behalf of private property owners.

6. Graffiti/Public Nuisance Ordinance Discussion (30 Minutes)

*Motion to recess for 10 minutes to read the letter submitted by the ACLU of Vermont.
Motion by Councilor Shannon, without objection.*

The ACLU letter is available in the agenda packet.

Motion to find that premature general public knowledge of confidential attorney-client communications made for the purpose of providing professional legal services to the Committee would clearly place the City at a substantial disadvantage because the City risks disclosing such confidential information in public.

Motion by Councilor Brown McKnight, Seconded by Councilor Bergman

Final Resolution: Motion Passes

Yes: Unanimous

Motion to, based on finding substantial disadvantage, the Committee enter into executive session to confer with legal counsel under of the provisions of 1 V.S.A. 313(a)(1)(F) to include Assistant City Attorneys Sturtevant and Ramakrishnan and the Committee members.

Motion by Councilor Brown McKnight, Seconded by Councilor Bergman

Final Resolution: Motion Passes

Yes: Unanimous

The Committee entered executive session at 12:32 PM. The Committee left executive session at 1:02PM.

Councilor Shannon said that the Committee will invite the ACLU of Vermont to add to their analysis if they need more time.

7. Any Other Committee Business

The next Ordinance Committee meeting is set for August 14 at 11:00AM.

5. Adjournment

5.1 Motion to Adjourn

Without objection, the meeting was adjourned at 1:03 PM.

Resolution Relating to

**CHANGES TO CITY CHARTER ARTICLES 62, 63, AND 65
REGARDING POLICE OVERSIGHT**

RESOLUTION 7.5.

Sponsor(s): Charter Change
Committee

Introduced: 07/15/24

Referred to: _____

Action: adopted as amended

Date: 07/15/24

Signed by Mayor: 07/17/24

CITY OF BURLINGTON

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

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

1 That WHEREAS, over the past several years, as part of its continued commitment to oversight and
2 accountability, the City Council and the Administration have continued to take steps to revise Burlington's
3 police oversight, transparency, and accountability practices; and

4 WHEREAS, pursuant to a resolution adopted by the Council on February 6, 2023, the City Council
5 requested the Ordinance Committee and Charter Change Committee to hold joint meetings, allowing for
6 community and stakeholder input on the disciplinary authority of the Chief of Police, the oversight role of the
7 Police Commission, and the creation of a separate community oversight body independent from the
8 Burlington Police Department; and

9 WHEREAS, over a span of eight months, the Joint Ordinance and Charter Change Committee met
10 fourteen times, seeking and receiving community and stakeholder input on the issues; and

11 WHEREAS, the Joint Committee voted to move forward a proposed charter change for public
12 comment with the understanding it may be placed upon the ballot after a final vote of the Burlington City
13 Council; however, after the first public hearing before the City Council on January 16, 2024 it was referred to
14 the Police Commission for review and comment; and

15 WHEREAS, the Police Commission met over the span of three months and brought forth their
16 thoughts to the City Council prior to the proposed Charter Change being brought back up by the Charter
17 Change Committee who met substantively four times regarding police oversight between June 12, 2024 and
18 July 1, 2024; and

19 WHEREAS, the Charter Change Committee unanimously referred the proposed language below to the
20 full City Council for consideration and voted 2-1 to place the proposed language on the November 5, 2024
21 ballot and warn the language for public hearing;

* * * * *

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Adopted by the City Council

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..... Clerk

Approved....., 20

..... Mayor

Vol. Page

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NOW, THEREFORE, BE IT RESOLVED that the City Council approves the amendments to the city charter recommended by the Charter Change Committee and requests the Mayor to place the following question on the ballot of the General Election to be held on November 5, 2024 and the City Clerk to set public hearings on the this question in accordance with Charter §303 and 17 V.S.A. § 2645:

"Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended, be further amended to amend Article 62, Police Department; Article 63, Chief of Police and Captain; and Article 65, Removal or Suspension, thereto to read as follows:

ARTICLE 62. POLICE DEPARTMENT

183 Board of police commissioners; composition; terms.

The board of police commissioners shall consist of seven (7) legal voters and should represent the diverse nature of said city's constituents, including those from historically marginalized communities, to be appointed by the city council with mayor presiding to serve for three (3) years and until their successors are appointed and qualified.

184 Same-powers and duties.

(a) The city council shall make rules and regulations for the government of the entire police ~~foree-department~~ and shall fix the qualifications of applicants for positions and service on said ~~foree-department~~ and to the extent permitted by applicable law, the chief of police shall furnish the city council with any information they may require concerning the finances of the police department. The chief of police shall be responsible for all expenditures made by the police department and no expenditures shall be made by the department except in conformity with the standards promulgated by the city council.

(b) The board of police commissioners shall have such authority and responsibility relating to the management, auditing, or monitoring of the police department, its services and facilities, as may be delegated from time to time by resolution, ordinances, and orders of the city council. Said board shall notify the mayor, ~~and the~~ chief administrative officer, and city council, in writing, of any and all changes, modifications or additions to the rules and regulations of the department.

(c) Without limitation to the foregoing, the board of police commissioners and the chief of police may propose rules and regulations for the government of the entire police department in a manner not inconsistent with those established by the city council. Adoption of such proposed rules and regulations requires joint approval by the board of police commissioners and the chief of police. In the event joint approval is not provided by the board of police commissioners and the chief of police, either party may bring forward to the city council the proposed rule or regulation for the city council's consideration.

(d) The board of police commissioners shall have the authority to receive and review all civilian and internal allegations of misconduct by members of the police department. The mayor's proposed budget and the city council shall annually appropriate an amount necessary for the adequate support and facilitation of such review. To the greatest extent permitted by law, the chief of police shall provide the board of police commissioners timely updates of any review, investigation, or disposition of alleged misconduct. The board of police commissioners shall have the ability to request additional information from the chief of police and access to those documents or other evidence relied upon by the chief of police in reviewing allegations of misconduct as the city council shall designate by ordinance. For complaints of alleged misconduct that constitute an offense subject to an investigation of the Vermont Criminal Justice Training Council pursuant to 20 V.S.A 2401 et seq. or for which the chief of police intends

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to impose discipline constituting loss of pay, suspension, or termination, the complaint may not be disposed until the board of police commissioners is notified of the proposed disposition.

After receiving notice from the chief of police of the recommended or actual disposition relating to the review of alleged misconduct, the board of police commissioners shall have the authority to:

(i) recommend an alternative disposition to the chief of police within a time established by ordinance; or

(ii) independently investigate any allegation of misconduct by members of the police department upon a 2/3 majority vote. Such investigation or review shall be conducted by an independent investigator hired by the board of police commissioners, and approved by the city attorney's office, and completed within a time established by ordinance. Upon the conclusion of such an investigation, the board of police commissioners may make a recommendation per subsection (i). The board of police commissioners shall not have the authority to investigate or impose discipline upon the chief of police. Matters regarding the alleged misconduct of the chief of police shall be addressed in conformity with section 190(b) of this Charter and other relevant Vermont statutes.

(e) Upon receiving a recommendation by the board of police commissioners in subsection (d), the chief of police may accept the recommendation subject to the notice and hearing provisions in Article 62, section 190(a) or reject the recommendation. In the event the chief of police rejects the recommendation, the chief of police shall immediately notify the board of police commissioners. Upon receiving notice of the rejection, the board of police commissions may, upon a 2/3 majority vote, request that an independent panel decide the disposition of the matter within a time established by ordinance, subject to the notice and hearing provisions set forth in in Article 62, section 190(a). The disposition of the independent panel shall be final, subject to any applicable right of appeal or grievance process.

This independent panel shall consist of three (3) to five (5) persons appointed per ordinance.

ARTICLE 63. CHIEF OF POLICE AND CAPTAIN

185 Officers of police ~~foree~~department designated.

(a) The direction and control of the entire police ~~foree~~department, except as herein otherwise provided, shall be vested in a police officer who shall be called the chief of police, and such other ranking police officers as the city council shall authorize, subject to the ordinances, resolutions, and orders of the city council; and, provided that the mayor shall retain the powers and duties of chief executive officer pursuant to §116. The order of rank and succession within the police department shall be as designated by the city council by regulation.

(b) Except as herein otherwise provided, such officers shall have the powers and duties granted to police officers by Vermont law and assigned to them by regulations adopted under section 184 of this Charter.

ARTICLE 65. REMOVAL OR SUSPENSION

190 Chief of police may remove member for cause; hearing.

(a) Whenever it shall appear to the chief of police that any member of said ~~foree~~police department has become incompetent, inefficient or incapable from any cause, or is or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the chief of police by a responsible person against such member, the chief of police may investigate and, after appropriate notice and hearing, dismiss such member from the ~~foree~~police department, order a reduction in rank, or suspend the member without pay for a specified time period in excess of 14 days. In connection with any possible dismissal, demotion, or suspension for more than 14 days, the chief of police's notice to the member shall be given at least 48 hours prior to any hearing and shall include a description of the

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charges being considered. In connection therewith, the chief of police shall have the power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b. The board of police commissioners, or in the case it has already offered an opinion on discipline pursuant to §184(d)(i), or in the case that the voting number of commissioners falls below four (4) due to declared actual or apparent conflict(s) of interest, an independent panel comprised as in §184(e) shall hear any appeal filed in a timely manner with respect to such actions of the police chief. The time of filing an appeal and the nature of the appellate process shall be as determined by such board of regulation. Following its consideration of any such appeal, the board may affirm, modify, or vacate the decision made by the police chief.

(b) Whenever it shall appear to the mayor that the chief has become incompetent, inefficient, or incapable from any cause, or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the mayor by a responsible person, the mayor may suspend the chief of police from duty pending a hearing thereon by the city council. The city council shall forth-with notify the chief of police of the charges preferred by them, or of the complaints or charges presented by such responsible person in writing, and shall thereupon proceed to consider and investigate the same. It shall appoint a time and place for the hearing of such complaints and charges so made, shall give the chief of police reasonable notice of the same, not less than 48 hours, and the city council shall have the power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b.

(c) If, upon hearing, the city council shall find such complaints or charges to be well founded, it may dismiss the chief of police from the ~~free~~ police department, demote him or her in rank, or suspend him or her without pay for a period not to exceed 60 days. The procedures outlined in this section shall control in the event of any conflict with section 129 of this Charter as pertains to the removal of the chief of police.

(d) The chief of police may, without notice or hearing for any infraction, violation, or disobedience of any of the rules and regulations of the police department that may seem to the chief of police sufficient, suspend from duty without pay any member of the police ~~free-department~~ for a period not to exceed 14 days.

AND BE IT FURTHER RESOLVED, the Ordinance Committee shall prepare a draft ordinance outlining the composition of the independent panel authorized by §184(e) of the amended City Charter, if enacted, and shall transmit the draft ordinance to the City Council on or by its meeting on September 23, 2024.

*Materials underlined added

**Materials stricken deleted

KS/Resolutions 2024/Changes to City Charter Arts. 62, 63, & 65 Regarding Police Oversight
7/11/24

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RESOLUTION RELATING TO

Changes to City Charter Articles 62, 63, and 65 Regarding Police Oversight

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As amended
Adopted by the City Council

July 15....., 20 24.....

[Signature] Clerk

Approved..... July 17....., 20 27.....

[Signature] Mayor

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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.

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(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)

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~~18-30911~~ 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)

18-3102 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)

18-3113—18-399 Reserved.

* Material stricken out deleted.

** Material underlined added.



August 7, 2024

Ordinance Committee
City of Burlington

Re: Conversion of Rentals to Homeownership

Dear Ordinance Commtee:

Thank you for the opportunity to speak to the importance of the City of Burlington's Condo Conversion Ordinance.

The Champlain Housing Trust, through its predecessor the Bulington Community Land Trust (BCLT), was created in 1984 to provide permanently affordable housing through homeownership as a way to prevent displacement and gentrification. The Old North End, and the City of Burlington has been a key target area.

Soon after BCLT's creation, the City of Burlington's condo conversion ordinance was created in response to the potential massive displacement of low-income renters from Northgate in the late 1980's, which at the time would have displaced 330 families and over a thousand people. It was successful, and Northgate remains a stable, affordable resident owned rental property.

Unfortunately, displacement continues to occur unchecked due to higher rents and redevelopment of existing multi-family properties. The need for tenant protections, and the condo conversion ordinance, is greater than ever.

CHT has a long history of successfully converting rental housing into homeownership. We have done this on a single-family home basis and through the conversion of multi-family properties.

Here are some of our practices and lessons that we have learned:

- Any conversion that we undertake includes a long notification period, an opportunity for the tenant to purchase the home, relocation expenses, and assistance in finding an affordable apartment at another location.
- Most importantly, all of the homes we create through conversion are permanently affordable for generations to come, providing stability for a neighborhood while also providing opportunity for wealth creation.
- Many apartments do not have the amenities that a new homeowner is seeking. Typically, homeowners are looking for these standard features: two bedrooms or more, full sized kitchen and dining, adequate storage, some privacy.
- Our experience has been that most renters do not want to own the home that they are renting due to their individual preferences or they are not able to qualify for a mortgage due to credit or other reasons.

Much of Burlington's older rental housing stock has been created through conversions of larger single-family homes into multiple apartments. The cost of converting these back to single family homes would be very high, considering the base cost would be the purchase of two or more apartments, and the substantial cost of conversion back into a single-family home.

The best opportunity for conversion of rental property is with newer properties that are more updated and need less improvements. These properties often serve a higher income tenant who may be better positioned to purchase and therefore there would be less impact from displacement.

Any program that the City would adopt should consider the following:

- First right of refusal to a non-profit entity or for the tenants to form a coop to purchase the property, say 120 days.
- If not purchased by a non-profit or coop:
 - A two-year notice to tenants (eliminate 4 year notice for elderly or disabled)
 - Payment of relocation costs as a set stipend for the tenant (\$2,000 in 2024 dollars)
 - Payment of rent differential for low and moderate income tenants with consideration to create a system that is simple and less complicated than federal standards.
- The majority of the homes converted should be permanently affordable.
- Relocated tenants should be given the opportunity to relocate to an affordable apartment or there should be substantial payment into the Housing Trust Fund to support the creation of the home or replacement apartment.

Thank you for your time and consideration.

Sincerely,

Michael Monte

Michael Monte
Chief Executive Officer

