



**Monday, September 30, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall
OR REMOTELY via ZOOM**

When: Sep 30, 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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1. Agenda

1.1. Motion to amend/adopt agenda

2. Adopt Draft Minutes

Subject	2.1. Adopt Draft Minutes from September 11
Meeting	September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	2. Adopt Draft Minutes
Department	Council and Board

Type

Recommended Action

Subject **2.2. Adopt Draft Minutes from September 16**

Meeting September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM

Category 2. Adopt Draft Minutes

Department Council and Board

Type

Recommended Action

3. Public Forum

Subject **3.1. Verbal Comments**

Meeting September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 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. Graffiti Ordinance Discussion

Subject **4.1. Graffiti Ordinance Discussion**

Meeting September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM

Category 4. Graffiti Ordinance Discussion

Department Council and Board

Type

Recommended Action

5. Condo Conversion Discussion

Subject **5.1. Condo Conversion Discussion**

Meeting September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 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. Trespass Ordinance Discussion

Subject	6.1. Trespass Ordinance Discussion
Meeting	September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 2024, 11:00 AM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	6. Trespass Ordinance Discussion
Department	Council and Board
Type	
Recommended Action	

7. Adjournment

Subject	7.1. Motion to adjourn
Meeting	September 30, 2024 - Ordinance Committee Meeting - Monday, September 30, 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
Wednesday, September 11, 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), Jessica Brown (City Attorney), Charles Dillard (Principal Planner), Sarah Morgan (Planner)

Public Present: Sharon Bushor, Erik Hoekstra, Eric Farrell, Todd DeLuca

Meeting called to order at 1:40 PM.

1. Adopt the Agenda
1.01 Adopt the Agenda

Motion to Adopt Agenda to include a 10 minute discussion on condo conversion and move item number six ahead of item number five.

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 August 26

Motion to Adopt the Draft Minutes from August 26.

Motion by Councilor Brown McKnight, Seconded by Councilor Bergman.

Councilor Bergman clarified that the minutes are not a transcript and may not exactly reflect his comments.

Final Resolution: Motion Passes

Yes: Unanimous

3. Public Forum
3.1 Verbal Comments

Eric Farrell: I believe that converting market rate apartments to condominiums is the best way to provide affordable or workforce housing. I built buildings ten or twelve years ago that could go for a few hundred thousand dollars today, but cost about \$300,000 to build originally. I would prefer that Burlington didn't have a conversion ordinance at all for market rate units. The most onerous problem with the current ordinance is the time period requirements.

Erik Hoekstra: There is a state statute that covers condo conversion very well. The concerns about conversion are mostly around displacement in an already-tight housing market. I am not

sure the ordinance does much for the City that the state statute does not already cover. Burlington also already has an inclusion zoning ordinance as well. I would support getting of the current conversion ordinance as it is already covered by statute and other City ordinances.

Sharon Bushor: I agree with Michael Monte's comments about displacement. On the neighborhood code, I sent some lengthy written comments about this already to the Committee and the Planning Commission. I want to thank Julia and Erhard from the Planning Commission for discussing my comments about the ordinance. I feel that many things that are important to affordable housing have been left out of the ordinance or postponed. I am not an expert on storm water runoff, but I was disappointed that language about runoff was not included. The Planning Commission also did not take up the issue of creating a process to allow taller buildings in the NNE when creating ADUs. I am disappointed by what is currently going forward.

Todd DeLuca: I live in Ward Four. There is an article in the Burlington Free Press from 1986 about the conversion of the old Hotel Vermont to apartments. The old hotel became apartments and then later became some of the most affordable condominiums in the City according to Zillow. Condo conversion is an important part of the housing lifecycle.

4. Condo Conversion Discussion

Councilor Shannon said the Committee should analyze the current state statute and make the City's ordinance language align with the statute.

Councilor Bergman agreed and said that there is an additional statute in Title 27 that should also be included. He added that he represented the tenants of the converted Hotel Vermont in the 1990s when it was being converted to condos and that the conversion took place while the current ordinance was in effect. He then renewed his request to the City Attorney's Office to incorporate the comments from Michael Monte and Brian Pine into the draft changes.

6. Comprehensive Development Ordinance Discussion regarding Secondary Structures

Charles Dillard and Sarah Morgan from the Department of Planning shared a presentation entitled "Neighborhood Code 2A". This presentation is available in the agenda packet.

Councilor Brown McKnight said her priorities in this discussion are to maintain the historic character of Burlington and preserve the yard space that is important for people's quality of life.

Councilor Bergman said he is uncomfortable making a decision on the increase in max square footage or height for secondary structures at this time and requested a special meeting on this topic.

Councilor Bergman left the meeting at 3:00 PM. The Committee continued to have a quorum.

Councilor Shannon said she thinks there should not be a secondary structures height cap lower than two stories.

Councilor Brown McKnight said she would like to hear from residents in the New North End about secondary structure height standards.

Councilor Shannon said she would like the RM max square footage reverted from 1100 back to 900.

5. Police Oversight Ordinance Discussion

Councilor Shannon said her proposal is to have the Mayor and City Council President collaboratively appoint the individuals to the panel. She said the whole Council would not be able to work quickly enough to make appointments in the timeframe necessary. She also reiterated that she wanted to keep the ten years' experience requirement for appointment.

Councilor Brown McKnight suggested also adding experience as a judge as a potential qualification to be on the panel.

Attorney Brown raised the issue of a potential conflict of interest if the HR Director is involved in previous levels of oversight before the issue gets to the panel. Councilor Shannon said this panel is for resolving conflicts between the Chief of Police and the Police Commission and the HR Director is not a directly involved party. She also added that the HR Director could staff the panel instead to maintain the HR perspective.

Councilor Shannon said that she thinks the chair of the panel should be selected by the Mayor and Council President.

7. Any Other Committee Business

The next meeting is set for September 16th, time and location to be determined.

8. Adjournment

Motion to Adjourn, without objection, by Councilor Shannon

The meeting was adjourned at 3:35 PM.

Ordinance Committee
Monday, September 16, 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), Charles Dillard (Principal Planner), Sarah Morgan (Planner), Scott Gustin (Zoning Division Manager)

Public Present: Sharon Bushor, Erhard Mahnke

Meeting called to order at 12:33 PM.

1. Adopt the Agenda
1.01 Adopt the Agenda

Motion to Adopt Agenda as drafted.

Motion by Councilor Brown McKnight, Seconded by Councilor Bergman.

Final Resolution: Motion Passes

Yes: Unanimous

2. Adopt Draft Minutes
2.1 Adopt Draft Minutes from September 11.

Motion to defer adoption of the minutes of September 11 to the next meeting.

Motion by Councilor Bergman, Seconded by Councilor Shannon.

Final Resolution: Motion Passes

Yes: Unanimous

3. Public Forum
3.1 Verbal Comments

Erhard Mahnke: I want to speak in favor of keeping the recommendation of the Planning Commission changes to the RM maximum footprint. Reducing the maximum allowable footprint to 900 square feet will result in less housing space. I want to draw more attention to considering how the neighborhood code and inclusionary zoning can work together.

Sharon Bushor: Thank you for reviewing the neighborhood code revisions. I sent a communication to the Committee about my revision ideas. We need to think more about addressing affordability in this housing policy. I think allowing a third story on a secondary structure that is limited to two if the third story is dedicated to affordable housing is a good idea. We need to make sure that stormwater issues are addressed in this ordinance and through the permitting process. I don't support the change that the Planning Commission proposed to RM.

4. Comprehensive Development Ordinance Discussion regarding Secondary Structures

Councilor Bergman said that the Committee got the memo and the recommended changes very late and there are more changes than just secondary structure height limits and maximum square footage.

Councilor Shannon clarified that it was the recommendation of staff that the maximum footprint be 900 square feet and that it was the Planning Commission that increased it to 1100.

Councilor Bergman asked if staff agree with upping the maximum square footage to 1100. Charles Dillard (Principal Planner) said it could be beneficial for some lots, but that he was not sure. He continued that it likely would not be harmful to increase.

Councilor Bergman said he supports increasing the maximum square footage to 1100 to add more housing space.

Councilor Shannon said that, because parking is no longer required by zoning, housing units will cover more of their lots with that extra 200 square feet. Neighborhoods, including both owners and renters, need parking. She supported keeping the square footage at 900.

Scott Gustin (Zoning Division Manager) recommended adding a tie in to the square footage issue that lot coverage requirements will remain in effect. All councilors agreed.

Councilor Brown McKnight supported keeping the square footage at 900. She said that this policy is already potentially doubling the allowable housing space in the city.

Motion to revert the change to secondary structure maximum square footage in the RM district to 900 and clarify that structures shall in no way exceed the lot coverage otherwise required.

Motion by Councilor Brown McKnight, Seconded by Councilor Shannon.

Final Resolution: Motion Passes

Yes: Councilors Brown McKnight and Shannon

No: Councilor Bergman

Charles Dillard said the idea from the previous meeting was to limit heights of secondary structures for individual parcels on the National Registry of Historic Places and Planning has put together some maps of these properties.

Councilor Brown McKnight said she supports having all secondary structures be limited to the height of the primary structure but the limit shall not be less than two stories or 25 feet.

Scott Gustin said the code could refer to Section 548 that lists all of the historic buildings. Charles Dillard added that most of the NNE is RL and most of those parcels would be limited to only two stories when they could be taller.

Councilor Shannon agreed with Councilor Brown McKnight's proposal regarding secondary structure height.

Motion to limit the height of secondary structures in the RL and RM districts to the same height as the primary structure, provided that the height maximum shall not be less than two stories or 25 feet.

Motion by Councilor Brown McKnight, Seconded by Councilor Shannon.

Final Resolution: Motion Passes

Yes: Councilors Brown McKnight and Shannon

No: Councilor Bergman

Charles Dillard raised the issue of defining primary and secondary structures as they are currently not defined.

Motion to ask staff to draft definitions of primary and secondary structures in accordance with Committee discussion.

Motion by Councilor Bergman, Seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Unanimous

Councilor Brown McKnight proposed limiting the number of units in secondary structures to two instead of eight to ten.

Councilor Bergman disagreed and said reducing the number of units will limit housing and that there are other mechanisms in place to handle any issues that may arise.

Councilor Shannon proposed having a limit of six units between both the primary and secondary structure.

Sarah Morgan clarified that the original proposal from staff was that each structure could have up to four units.

Motion to reduce the maximum number of units in a secondary structure from four to two.

Motion by Councilor Brown McKnight, Seconded by Councilor Shannon.

Final Resolution: Motion Fails

Yes: Councilor Brown McKnight

No: Councilors Bergman and Shannon

Councilor Shannon said the issue of the number of units is constrained by other ordinances and policies. She said that, no matter what, the housing capacity is restrained by the space allowed.

Councilor Brown McKnight said she is concerned about her ward, ward six, and that the large parcel sizes may mean larger secondary structures could be built.

Motion to approve the technical amendments as proposed by staff.

Motion by Councilor Bergman, Seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes
Yes: Unanimous

5. Police Oversight Ordinance Discussion

Councilor Bergman said he was fine with having joint mayoral-council president appointments. He said the ten year experience requirement is too high and the pool of available candidates will be too small. He supports having an on-call list to pull from when needed. He added that a contingency clause is necessary in case the panel cannot be convened in the appropriate timeframe.

Councilor Shannon proposed replacing the HR Director with an appointment of a person with at least ten years HR or union representation experience. She wants the panel to be a trusted, experienced group of local professionals. She also proposed experience in municipal, state or federal government as an attorney could also be a criterion.

Councilor Brown McKnight acknowledged the focus on legal criteria for candidacy and could expand the criteria, but supported having at least ten years professional experience.

Councilor Shannon said that the Police Commission is the public body that does the initial review and reflects the City as a whole. She added that this new panel is about making a decision on an officer's actions rather than defining or changing the Department's policies.

Motion to change the requirements to be that four of the five members shall have at least ten years of experience as a prosecutor, public defender, retired judge, law enforcement officer, HR professional, municipal, state, or federal attorney, or union representation.

Motion by Councilor Shannon, Seconded by Councilor Brown McKnight.

Final Resolution: Motion Passes

Yes: Councilors Brown McKnight and Shannon

No: Councilor Bergman

Councilor Bergman said he supports having a broad range of qualifications and not having a hard requirement of ten years of experience. He will reconsider the language once there is a set of qualifications set in stone.

Motion to refer the language back to the City Council for approval.

Motion by Councilor Brown McKnight, Seconded by Councilor Shannon.

Final Resolution: Motion Passes

Yes: Councilors Brown McKnight and Shannon

No: Councilor Bergman

6. Any Other Committee Business

7. Adjournment

Motion to Adjourn, without objection, by Councilor Bergman.

The meeting was adjourned at 2:41 PM.

DRAFT

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, and any violation of any provision of this code that interferes with a public right, including air, noise, or water pollution, the emission of noxious odors, or damage to public property in violation of section 21-29, is hereby declared to be a public nuisance and may be ordered abated in any manner provided by law.

~~(2)-(f) Private right of action. As authorized by section 54 of the City's Charter, any member of the public who suffers damages arising from any violation of any provision of this code is hereby authorized to bring a private right of action to recover such damages. Because of the effect of such conduct on the whole community, it shall also constitute a public nuisance to do~~ In case of anything declared by this Code to be a civil or criminal offense done 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, such violation shall be presumed to cause the person against whom the violation was directed damages in the amount of \$100.00 or any greater amount subject to proof. 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 plaintiff shall be entitled to recover reasonable attorneys' fees and costs. The respondent defendant 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. The remedies authorized hereby are cumulative of any other remedy available at law or in equity.

(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 ~~tenan~~ cy ~~t~~ 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
CONVERSION OF RENTAL HOUSING TO CONDOMINIUMS OR
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)

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

~~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.

City's Current Ordinance	State Law
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; (8) To promote the rehabilitation and construction of housing for low-and moderate-income persons; (9) 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 (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.	
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.	24 V.S.A. § 2293. Regulation of condominium conversion; referendum A town may adopt an ordinance governing the conversion of rental units to condominiums which is supplemental to and not inconsistent with the provisions of 27 V.S.A. chapter 15, subchapter 2. Such an ordinance shall be submitted to the voters and shall be adopted if approved by a majority of those present and voting. 27 V.S.A. § 1332. Applicability This subchapter shall apply to the conversion of all residential rental property in the state other than a mobile home park, except the conversion of any single-family dwelling unit that is individually owned but has been rented. Conversion of a mobile home park shall be subject to subchapter 3 of this chapter.
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.	
18-303 Definitions. The following definitions shall apply in the interpretation and enforcement of this article:	27 V.S.A. § 1331. Definitions As used in this subchapter:
<i>Application fee</i> 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.	
<i>Certified tenant organization</i> 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.	
	(1) “Comparable housing” means housing that is decent, safe, sanitary, and in compliance with all local and State housing codes, and provided with facilities equivalent to those provided by the landlord in the dwelling unit in which the tenant then resides in regard to each of the following: apartment size, rent range, major kitchen and bathroom facilities, special facilities necessary for persons with disabilities or who have an infirmity, and desirability of neighborhood, school facilities, or area.

<i>Condominium conversion fee</i> 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.	
<i>Conversion</i> 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.	(2) “Conversion” means a change in character of residential real property from a rental to an ownership basis. A common interest community, stock cooperative, or similar arrangement shall be deemed such a change in character of ownership
	(3) “Declarant” means any person who offers for transfer ownership interests in a common interest community as part of an initial common promotional plan.
<i>Designated housing agency</i> 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.	
<i>Disabled tenant</i> 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.	(5) “Tenant with a disability” means a tenant who has a physical or mental impairment that 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.
<i>Elderly tenant</i> 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.	(4) “Tenant who is an elder” means a tenant who is 62 years of age or older.
<i>Low-income tenant household</i> means a household having an income not exceeding eighty (80) per cent of median income for area of residence as	(6) “Low-income tenant household” means a household having an income not exceeding 80 percent of median income for area of

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.	residence as set forth in regulations promulgated from time-to-time by the Department of Housing and Urban Development pursuant to 42 U.S.C. § 1437 et seq.
<i>Moderate-income tenant household</i> 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.	
<i>Notice to tenants</i> 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.	
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 (4) years to elderly and disabled tenants; two (2) years to all other tenants. The burden shall be on the tenant to prove that he or she qualifies as meeting the definition of "elderly" or "disabled" as defined in this article.	27 V.S.A. § 1333. Conversion building; notice to tenants (a) If the building to be converted consists of more than five dwelling units or if the building to be converted is part of an apartment complex or is one building in a group of buildings that are contiguous or that share common areas, the landlord shall give to each tenant the following minimum written notice to vacate or purchase the unit: two years to tenants who are elders or have a disability; one year to low-income tenant households; six months to all other tenants. (b) If the building to be converted consists of five or fewer dwelling units, the landlord shall give to each tenant the following minimum written notice to vacate or purchase the unit: one year to tenants who are elders or have a disability; six months to low-income tenant households; three months to all other tenants. A landlord may not circumvent the longer notice requirements by converting a building consisting of five or fewer dwelling units if the conversion is part of a plan to convert more than five dwelling units.
(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	(c) The notice shall state that the building is to be converted to a common interest community. It shall set forth generally the rights of tenants under this subchapter, and shall be given by certified mail, return receipt requested, at the address of the unit or any other mailing

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.	address provided by the tenant. Failure to give notice as required by this section is a defense to an action for possession.
(c) During the notice period, a tenant may not be required to vacate 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, a tenant may not be required to vacate except for a reason specified in 9 V.S.A. § 4467(a) or (b).
(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) 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 dwelling 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) After receipt of the notice prescribed in subsection (a) of this section, a tenant may terminate the rental agreement upon 30 days' written notice to the landlord.
(f) Nothing in this section permits termination of a written lease by an owner in violation of its terms.	(g) Nothing in this section permits termination of a written lease by a landlord 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 requirements imposed by this section shall not affect the right of a declarant to transfer ownership interests in dwelling units that are not subject to those requirements or as to which the notice period has expired.

(h) The notice period shall end four (4) years after the receipt of the written notice for elderly tenants, or two (2) years after the receipt of the notice for all other tenants, or when the existing lease ends, whichever is later	
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. (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;	27 V.S.A. § 1334. Exclusive right to purchase (a) For 90 days after giving the notice described in section 1333 of this title, the declarant shall offer to convey each unit or proposed unit occupied for residential use to the tenant who rents that unit. The tenant shall be given all documents provided to the general public or to other tenants as part of the offering for sale of the unit. If a tenant fails to contract for the unit during the offer period, the declarant may not offer an interest in that unit during the following 90 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. (b) If a declarant conveys a unit in violation of section 1333 to a purchaser for value who has no knowledge of the violation, recordation of the deed conveying the unit extinguishes any right a tenant may have to purchase the unit, but does not affect the right of a tenant to recover damages from the declarant. (c) This section shall not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(5) Floor plans of the housing units and any common areas; 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.	
	27 V.S.A. § 1335. Comparable housing The declarant may offer a tenant assistance in locating comparable housing. If, as a result, the tenant obtains comparable housing, the tenant may be required upon 90 days’ notice to vacate the premises.
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.	

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.	
	27 V.S.A. § 1337. Waiver prohibited No lease or rental agreement, oral or written, shall contain any provision by which the tenant prospectively waives any of his or her rights under this subchapter. Any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.
18-308 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).	27 V.S.A. § 1338. Circumvention of this subchapter A declarant shall not attempt to circumvent the provisions of this subchapter; 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 1333 of this title.
18-309 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	27 V.S.A. § 1339. Violations A violation of this subchapter is deemed to be a violation of 9 V.S.A. § 2453, and is subject to all rights, obligations, and penalties provided under 9 V.S.A. chapter 63. 9 V.S.A. § 2453. Practices prohibited; antitrust and consumer protection (a) Unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce are hereby declared unlawful. (b) It is the intent of the Legislature that in construing subsection (a) of this section, the courts of this State will be guided by the construction of similar terms contained in Section 5(a)(1) of the Federal Trade Commission Act as from time to time amended by the Federal Trade Commission and the courts of the United States.

of this article as contemplated by Section 49 of the Charter of the City of Burlington.	(c) The Attorney General shall adopt rules, when necessary and proper to carry out the purposes of this chapter, relating to unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce. The rules shall not be inconsistent with the rules, regulations, and decisions of the Federal Trade Commission and the federal courts interpreting the Federal Trade Commission Act. (d) Violation of a rule adopted by the Attorney General is prima facie proof of the commission of an unfair or deceptive act in commerce. (e) The provisions of subsections (a), (c), and (d) of this section shall also be applicable to real estate transactions. 9 V.S.A. § 2461. Civil penalty (a) ... (b) Any consumer who contracts for goods or services in reliance upon false or fraudulent representations or practices prohibited by section 2453 of this title, or who sustains damages or injury as a result of any false or fraudulent representations or practices prohibited by section 2453 of this title, or prohibited by any rule or regulation made pursuant to section 2453 of this title, may sue for appropriate equitable relief and may sue and recover from the seller, solicitor, or other violator the amount of his or her damages, or the consideration or the value of the consideration given by the consumer, reasonable attorney's fees, and exemplary damages not exceeding three times the value of the consideration given by the consumer. Any language, written or oral, used by a seller or solicitor, that attempts to exclude or modify recovery of the penalty or reasonable attorney's fees shall be unenforceable. (c) Any person alleged to have violated the terms of subsection (b) of this section shall be entitled to a trial by jury, unless waived according to law.
18-310 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.	
18-311 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.	
18-312 Relocation costs. (a) The owner shall pay the actual documented cost of relocation, not to exceed one thousand dollars (\$1,000.00), 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.	27 V.S.A. § 1336. Relocation costs (a) The declarant shall pay the actual documented cost of relocation, not to exceed \$1,000.00, to any tenant entitled to receive notice under section 1333 of this title who does not purchase the unit that he or she occupies or another unit in the same building or buildings. (b) Relocation costs shall be payable within 10 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.



OFFICE OF THE CLERK/TREASURER

City of Burlington

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

Voice (802) 865-7000

Fax (802) 865-7014

TTY (802) 865-7142

MEMORANDUM

TO: Ordinance Committee Members

FROM: Lori Olberg, Licensing and Records Coordinator

DATE: December 19, 2023

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

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

Thank you.

CITY OF BURLINGTON

ORDINANCE

8.5.

Sponsor: Councilors Paul and

Traverse

Public Hearing Dates: _____

In the Year Two Thousand Twenty-Three

An Ordinance in Relation to

BURLINGTON CODE OF ORDINANCES-

Sections 21-45 – 21-49

Trespass

First reading: _____

Referred to: Ordinance Committee *

Rules suspended and placed in all

Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

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

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

ARTICLE I. In General

Secs. 21-1 – 21-44 As written.

Sec. 21-45 Unlawful trespass.

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

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

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

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

Waiver Penalty:

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

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

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

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

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

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

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

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

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

73 (e) Length of notice of trespass.
74

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

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

(f) Appeal.

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

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

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

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

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

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

Sec. 21-46 Disorderly conduct.

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

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

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

Waiver Penalty:

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

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

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

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

Sec. 21-47 Unlawful mischief.

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

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

Waiver Penalty:

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

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

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

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

Sec. 21-48 City Hall Park.

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

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

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

~~b. Makes unreasonable noise; or~~

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

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

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

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

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

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

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

(b) Enforcement.

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

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

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

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

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

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

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

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

Specifically:

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

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

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

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

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

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

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

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

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

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

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

(d) Enforcement.

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

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

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

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

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

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

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

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

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

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

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

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



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

Resolution Relating to

PRIVATE TRESPASS POLICY

RESOLUTION _____

Sponsor(s): Ordinance Committee
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

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, the City Council Ordinance Committee has been reviewing proposed changes to the
2 City’s trespass ordinance; and

3 WHEREAS, the Committee received questions and comments regarding the process for issuing a
4 trespass on private property; and

5 WHEREAS, the Burlington Police Department (BPD) does not currently have a written public policy
6 regarding the issuance of trespass notices on private property; and

7 WHEREAS, concerns have been raised by businesses and other private property owners regarding the
8 ability to have assistance with trespassing individuals off their properties; and

9 WHEREAS, certain restraints have been raised by BPD; and

10 WHEREAS, the Ordinance Committee has reviewed this matter and recommends that the City Council
11 request BPD to work with the City Attorney’s Office and establish policies regarding trespass on private
12 property;

13 NOW THEREFORE BE IT RESOLVED that the City Council hereby requests BPD to review and
14 revise its policies regarding trespass on private property to establish a clear system, including forms and other
15 necessary documents available on the BPD’s website, to clarify the process for issuing trespass on private
16 properties, working with the City Attorney’s Office to help address concerns raised regarding restrictions.

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: _____

Public Hearing Dates: _____

In the Year Two Thousand Twenty-Four

First reading: _____

Referred to: _____

Rules suspended and placed in all

Stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

An Ordinance in Relation to

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

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

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

ARTICLE I. In General

Secs. 21-1 – 21-44 As written.

Sec. 21-45 Unlawful trespass.

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

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

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

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

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

Waiver Penalty:

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

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

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.

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.