Thursday, July 17, 2025, 4:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM

When: Jul 17, 2025 04:30 PM Eastern Time (US and Canada)
Topic: Ordinance Committee Meeting

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1. Agenda

1.1. Motion to amend/adopt agenda

2. Adopt Draft Minutes

Subject	**2.1. Adopt Draft Minutes from June 18**
Meeting	July 17, 2025 - Ordinance Committee Meeting - Thursday, July 17, 2025, 4:30 PM, 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	July 17, 2025 - Ordinance Committee Meeting - Thursday, July 17, 2025, 4:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	3. Public Forum
Department	Council and Board
Type	

4. Gross Receipts Ordinance Discussion

Subject	**4.1. Gross Receipts Ordinance Discussion**
Meeting	July 17, 2025 - Ordinance Committee Meeting - Thursday, July 17, 2025, 4:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	4. Gross Receipts Ordinance Discussion
Department	Council and Board
Type	
Recommended Action	

5. City Circle Ordinance Discussion

Subject	**5.1. City Circle Ordinance Discussion**
Meeting	July 17, 2025 - Ordinance Committee Meeting - Thursday, July 17, 2025, 4:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	5. City Circle Ordinance Discussion
Department	Council and Board
Type	
Recommended Action	

6. Any Other Committee Business

Subject	**6.1. Any Other Committee Business**
Meeting	July 17, 2025 - Ordinance Committee Meeting - Thursday, July 17, 2025, 4:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	6. Any Other Committee Business
Department	Council and Board
Type	
Recommended Action	

7. Adjournment

Subject	**7.1. Motion to adjourn**
Meeting	July 17, 2025 - Ordinance Committee Meeting - Thursday, July 17, 2025, 4:30 PM, Bushor Conference Room 1st Floor, City Hall OR REMOTELY via ZOOM
Category	7. Adjournment
Department	Council and Board
Type	
Recommended Action	

Ordinance Committee
Wednesday, June 18, 2025
Bushor Conference Room Conference Room
or Remote via Zoom. Burlington, Vermont
DRAFT MINUTES

Members Present: Councilor Bergman (Chair), Councilor Barlow, Councilor Carpenter, Councilor Kane

Staff Present: Kim Sturtevant (Assistant City Attorney), Sarah Morgan (City Planner), Eleonore Walker (Water Resources)

Public Present: Sharon Bushor, David White

Meeting called to order at 4:35 PM.

1. Adopt the Agenda
1.1 Adopt the Agenda

Motion to Adopt Agenda.
Motion by Councilor Barlow, Seconded by Councilor Carpenter.
Final Resolution: Motion Passes
Yes: Unanimous

2. Adopt Draft Minutes
2.1 Adopt Draft Minutes from May 7

Motion to adopt the draft minutes from May 7 as drafted.
Motion by Councilor Barlow, Seconded by Councilor Carpenter.
Final Resolution: Motion Passes
Yes: Unanimous

2.2 Adopt Draft Minutes from May 9

Motion to adopt the draft minutes from May 9 as drafted.
Motion by Councilor Barlow, Seconded by Councilor Carpenter.
Final Resolution: Motion Passes
Yes: Unanimous

2.3 Adopt Draft Minutes from May 14

Motion to adopt the draft minutes from May 14 as drafted.
Motion by Councilor Barlow, Seconded by Councilor Carpenter.
Final Resolution: Motion Passes
Yes: Unanimous

3. Public Forum

No members of the public spoke on this item.

4. ZA-25-03 SEID Stormwater Standards

Sarah Morgan went through a presentation of the draft changes to the SEID Stormwater Standards.

Councilor Bergman clarified that Chapter 26 and the Vermont Stormwater Manual still apply to the SEID even with the draft changes.

Motion to refer the draft ordinance to the full City Council for second reading and public warning with a recommendation for adoption.
Motion by Councilor Carpenter, Seconded by Councilor Barlow.
Final Resolution: Motion Passes
Yes: Unanimous

5. ZA-25-06 PlanBTV Downtown Code Parking Setbacks

David White said he is working on a boundary line adjustment and that the five foot parking setback is causing an issue. He said that the five foot setback is not anywhere else and that is an inconsistency in the code and does not reflect current urban conditions. This change keeps parking setbacks for parcels adjacent to civic buildings and residential buildings.

Sharon Bushor said her main concern was with headlights shining into residential buildings and she is happy that the Planning Department took her thoughts into consideration.

Councilor Barlow asked if this change would alter any other parcels by reducing their available parking.

Attorney Sturtevant said new applications would require adherence to the new ordinance but existing properties would have a pre-existing non-conformity.

Motion to refer the draft ordinance to the full City Council for second reading and public warning with a recommendation for adoption.
Motion by Councilor Barlow, Seconded by Councilor Carpenter.
Final Resolution: Motion Passes
Yes: Unanimous

6. Any Other Committee Business

The next ordinance committee meeting is scheduled for July 17th at 4:30 PM.

7. Adjournment

The meeting was adjourned at 5:52 PM.

CITY OF BURLINGTON

ORDINANCE ___________
Sponsor: Traverse
Public Hearing Dates: ___________

First reading: _________________
Referred to: ___________________
Rules suspended and placed in all stages of passage: ______________
Second reading: ________________
Action: ______________________
Date: ________________________
Signed by Mayor: ______________
Published: ____________________
Effective: _____________________

In the Year Two Thousand Twenty-Five

An Ordinance in Relation to

GROSS RECEIPTS TAX

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

That Chapter 21, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sec. 31, thereof to read as follows:

Paragraph (I), as written.

(II) TAXES IMPOSED:

(A) Restaurant Tax: There is hereby imposed a business occupation tax upon all persons engaged in the restaurant business of whatever name or character in the City of Burlington. The tax imposed shall be at the rate of two (2) percent of the gross receipts from taxable business, as defined herein, done per monthly period in accordance with the provisions of this section.

Subparagraphs (B) to (F), as written.

(G) Temporary Tax Rate: Notwithstanding any other provision of this section, for the fiscal year commencing on July 1, 2024, and ending on June 30, 2026~~August 31, 2025~~, the restaurant, amusements, and admissions taxes on gross receipts set forth in subsections (A), (D), and (E) of this section shall be increased from two (2) percent of gross receipts to two and one-half (2.5) percent. Commencing July 1, 2026~~September 1, 2025~~, said tax rates shall again be set at two (2) percent.

Paragraphs (III) to (XV), as written.

* Material stricken out deleted.
** Material underlined added.

JB/Ordinances 2025/*Gross Receipts Tax*
6/18/25

City Attorney

MEMORANDUM

TO: City of Burlington, City Council

FROM: Erik Ramakrishnan, Assistant City Attorney

CC: Katherine Schad, Chief Administrative Officer

DATE: July 14, 2025

SUBJECT: Communication re Gross Receipts Ordinance

Burlington Code of Ordinances Section 21-31 imposes a tax on the gross receipts of restaurants (referred to hereinafter as the "meals and beverages tax"), hotels & motels (referred to hereinafter as the "rooms tax"), short-term rentals (referred to hereinafter as the "STR tax"), amusements, and admissions. In 2024, the City Council amended the ordinance to increase the rooms tax permanently from two percent (2%) to four percent (4%) and the meals and beverages tax temporarily from two percent (2%) to two and one-half percent (2.5%).

The latter temporary increase was set to sunset on July 1, 2025. However, on May 19, 2025, the City Council approved the first reading of an ordinance sponsored by the Clerk-Treasurer's Office to make the increase permanent. At the May 14, 2025 direction of the Ordinance Committee, the ordinance was referred to the Board of Finance in lieu of the Ordinance Committee. On June 2, 2025, following Board of Finance consideration, the City Council ultimately voted to delay the sunset until September 1, 2025, instead of making the increase permanent. This was done to allow the City Council and the Administration time to consider alternatives for the FY26 budget.

On June 23, 2025, after it became clear that the FY26 budget would need to rely upon a 2.5% meals and beverages tax, the City Council approved the first reading of an ordinance extending the sunset to July 1, 2026. At the City Council's referral, the Ordinance Committee will consider the ordinance at its July 17, 2025 meeting.

As an alternative to the current proposal, the Administration has tasked the City Attorney's Office with drafting an amendment that would accomplish three things:

(1) Make the increase permanent;
(2) Clarify that the STR tax shall be earmarked for the Housing Trust Fund unless otherwise specified in City Council's annual budget resolution; and
(3) Align the meals and beverage tax more closely to state law.

Regarding the second point, before the STR tax was adopted by the City Council at the rate of nine percent (9%), owners of short-term rentals were subject to the City's then-2% rooms tax. The STR tax added an extra seven percent (7%) to generate revenue for the Housing Trust Fund. The City's practice has always been to earmark only the additional 7% for this purpose. Staff memoranda to the City Council at the time appears to confirm that this was the intent, even though the ordinance's text reads as though the entire 9% should be earmarked for the Housing Trust Fund.

This year's budget followed historic practice, but there is interest in earmarking the entire 9% to the Housing Trust Fund for future fiscal years. To ensure flexibility and to clarify the intent of the ordinance, the Administration proposes to amend the ordinance text to read as follows: "The tax imposed shall be at a rate of nine (9) percent of gross receipts from taxable business, as herein defined, done per monthly period in accordance with the provisions of this section. These revenues shall be ~~and~~ dedicated to the housing trust fund, except that the city council's annual budget resolution may dedicate up to two (2) percent for general fund purposes, with the remaining seven (7) percent dedicated to the housing trust fund."

The Administration's third proposal would align the meals and beverage tax with state law. The State of Vermont imposes a meals and rooms tax at a rate of nine percent (9%) on meal and lodging and a rate of ten percent (10%) on alcoholic beverages served in restaurants. The tax is largely complimentary of the City's meals and beverages tax. In other words, if the state tax is otherwise due at the rate of 9% or 10%, then the City's meals and beverages tax is also due at a rate of 2.5%. However, the definitions and triggers of the state and local tax are not entirely identical, which can lead to confusion, hamper enforcement, and potentially disadvantage local businesses. Aligning the two taxes so that the City's local tax is triggered by the obligation to pay the state tax would allow staff to rely upon state interpretative guidance concerning the meals and rooms tax in case ambiguities arise in the individual case, and it would improve predictability for local businesses.

The City Attorney is currently drafting the proposal requested by the Administration. Without objection from the City Council, that proposal will be brought to the Ordinance Committee on July 17, 2025, to be deliberated along side the currently pending proposal referred by the City Council on June 23, 2025.

MOTION

To accept the communication and to allow the Administration's proposal to be considered by the Ordinance Committee for report back to the City Council as soon as possible.

Thank you for your continued support.

21-31 Restaurant, hotel, amusements and admissions taxes.

(I) *GENERAL PROVISIONS:*

(A) *Title:* This section may be cited as the "Restaurant, Hotels, Amusements and Admissions Taxes Ordinance."

(B) *Purpose and Authority:* This section is enacted to raise revenue for municipal purposes pursuant to the Charter of the City of Burlington, Act No. 298, Acts of 1949, Sections 48III and 48XXIV.

The city council originally adopted this tax on January 30, 1986. Included in that ordinance was subsection "XVI Sunset." Subsequent to the adoption of the ordinance, the voters recommended and the Legislature adopted a change to the City Charter (Acts of 1986, M-21) which established a system of tax classification in Burlington.

That city council and each successor city council has construed the 1986 tax ordinance not to have sunset, to have been in continuous effect, and each has adopted a city budget which collected and expended funds raised by that 1986 ordinance.

On April 2, 1990, the Superior Court construed the intention of the 1986 enactment of this ordinance to trigger a sunset of it effective June 30, 1987, and declared it no longer effective.

The city council hereby enacts this ordinance as both a prospective and retroactive curative adoption. The city council views the Superior Court's construction of the intention of our predecessor 1986 city council to be erroneous. Despite the fact that an appeal of that decision is pending at the time of this enactment, the city council finds that prudence further necessitates that this curative action also be taken by us as the local legislative body of the city.

It is therefore the express legislative purpose of this 1990 enactment of this ordinance to:

(1) Adopt the "Restaurant, Hotel, Amusements and Admissions Taxes Ordinance," Code of Ordinances, Section 21-31, without the sunset clause which appeared at subsection XVI of the 1986 enactment, and which gave rise to the Superior Court declaration of defect in the ordinance's continued effectiveness after June 30, 1987; and

(2) Make this enactment, which has eliminated the former sunset clause altogether, retroactive to the effective date of the original tax ordinance adopted January 30, 1986.

(II) *TAXES IMPOSED:*

(A) *Restaurant Tax:* Whenever any tax is due pursuant to 32 V.S.A. § 9241(a) or (b) (as the same may be amended or renumbered from time to time), from an operator for a transaction in the city, there shall hereby be imposed a ~~There is hereby imposed a~~ business occupation tax at the rate of two and one-half (2.5) percent on the operator's gross receipts for the taxable meals and alcoholic beverages furnished. Said tax shall be done per monthly period in accordance with the provisions of this section. ~~upon all persons engaged in the restaurant business of whatever name or character in the City of Burlington~~. ~~The tax imposed shall be at the rate of two (2) percent of the gross receipts from taxable business, as defined herein, done per monthly period in accordance with the provisions of this section.~~ A transaction shall be deemed to have occurred within the city if the taxable meals or alcoholic beverages delivered originated from a business within the city and subject to regulation and taxation pursuant to Section 48(III) or (XXIV) of the city's charter (as the same may be amended or renumbered from time to time), unless local option tax is due for delivered taxable meals or alcoholic beverages to another municipality, pursuant to 24 V.S.A. § 138.

(B) *Hotel and Motel Tax:* There is hereby imposed a business occupation tax upon all persons engaged in the hotel or motel business of whatever name or character within the City of Burlington. The tax imposed shall be at a rate of four (4) percent of gross receipts from taxable business, as herein defined, done per monthly period in accordance with the provisions of this section.

(C) *Short Term Rental Tax*: There is hereby imposed a business occupation tax upon all persons engaged in operating short term rentals within the City of Burlington. The tax imposed shall be at a rate of nine (9) percent of gross receipts from taxable business, as herein defined, done per monthly period in accordance with the provisions of this section. These revenues shall be and dedicated to the housing trust fund, except that the city council's annual budget resolution may dedicate up to two (2) percent for general fund purposes, with the remaining seven (7) percent dedicated to the housing trust fund.~~The tax imposed shall be at a rate of nine (9) percent of gross receipts from taxable business, as herein defined, done per monthly period in accordance with the provisions of this section and dedicated to the housing trust fund.~~

(D) *Amusements Tax:* There is hereby imposed a business occupation tax upon all persons engaged in the business of operating places of amusement, including, but not limited to, pool halls, arcades, bowling alleys, or operating any establishment making available use of amusement devices of whatever name or character within the City of Burlington. The tax imposed shall be at the rate of two and one-half (2.5) percent of taxable business, as defined herein, done per monthly period in accordance with the provisions of this section.

(E) *Admissions Tax:* There is hereby imposed a tax on admissions to circuses, menageries, carnivals, cinemas, shows of every kind, plays, athletic contests, exhibitions or entertainments for money of whatever name or character except those of educational or nonprofit institutions or organizations or wholly for charitable purposes. The tax imposed shall be at the rate of two and one-half (2.5) percent of the gross receipts from such admissions, as defined herein, done per monthly period in accordance with the provisions of this section.

(F) *Compliance Required:* It shall be unlawful for any person to transact or carry on any business, occupation or activity subject to the provisions of this section without complying with all applicable provisions herein.

~~(G) *Temporary Tax Rate:* Notwithstanding any other provision of this section, for the fiscal year commencing on July 1, 2024, and ending on June 30, 2025, the restaurant, amusements, and admissions taxes on gross receipts set forth in subsections (A), (D), and (E) of this section shall be increased from two (2) percent of gross receipts to two and one-half (2.5) percent. Commencing July 1, 2025, said tax rates shall again be set at two (2) percent.~~

(III) *DEFINITIONS:* For the purposes of this section, the following terms, phrases, words and their derivations shall have the meanings given herein:

(A) *Person* means any individual, male or female, estate, trust, receiver, cooperative association, domestic and foreign corporation, syndicate, joint stock corporation, partnership of any kind, club and society.

(B) *Council* means the city council of the City of Burlington, Vermont.

(C) *Treasurer* means the treasurer of the City of Burlington, or his/her designated representative.

(D) *Gross Receipts* means the total amounts received or receivable and the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed when such act or service is done as part of or in connection with a taxable admission or a taxable business as herein defined. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deductions therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" shall be the following:

(I) Cash discounts allowed and taken. For the purpose of this section, "cash discount" means a deduction from the invoice price of goods or charge for services which is allowed if the bill is paid on or before a specified date.

(2) Any tax required by Chapter 225 or Chapter 233 of Title 32 Vermont Statutes Annotated.

(E) *Monthly Period* means such period which shall begin on the first day of each calendar month and includes the last day of each calendar month.

(F) *Successor* means any person who shall, through direct or mense conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stocks, goods, wares or merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

(G) *Taxable Business* means:

(1) ~~Sales of any food or food products prepared on premises and delivered to the purchaser ready to eat, or of beverages, including alcoholic beverages, served for consumption on premises, but shall not include:~~

~~(a) Meals served on the premises of day care centers, nurseries, kindergartens, elementary or secondary schools;~~

~~(b) Meals prepared by the employees thereof and served to the patients or wards of any hospital, convalescent home, sanitorium, group home, nursing home or home for the aged;~~

~~(c) Meals furnished to the elderly pursuant to the Older Americans Act 42 USC, Chapter 35, Subchapter VII;~~

~~(d) Meals sold by nonprofit organizations at bazaars, fairs picnics, church suppers or similar events.~~Any transaction for which restaurant tax is due pursuant to paragraph (II)(A) of this section.

(2) Rental of hotel and motel rooms including the conduct of incidental activities such as conduct of conventions, seminars and meetings on hotel or motel premises.

(3) Charges of any kind received, including admission or minimum charges for the use of pool halls, billiard tables, bowling alleys, arcades, electric amusement devices, mechanical amusement devices, or the use of other places of amusement or of amusement devices of whatever name and character.

(H) *Taxpayer* includes any individual, group of individuals, corporation, partnership or association required to pay a tax under this section, or any person who engages in any occupation for which tax is imposed by this section.

(I) *Hotel* or *Motel* means an establishment which holds itself out to the public by offering sleeping accommodations and food for consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or proprietor or lessee, sub-lessee, mortgagee, licensee, or any other person or agent of any of the foregoing. The term "hotel" shall not include the following:

(1) A hospital, licensed un Chapter 43 of Title 18, or a sanitorium, convalescent home, nursing home or a home for the aged.

(2) An establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein.

(J) *Operator* has the meaning given that term in 32 V.S.A. § 9202, as the same me be amended or renumbered from time to time. Notwithstanding the foregoing, "operator" does not include the operator of a "vending machine" unless food or beverages furnished from the vending machine are intended for onsite consumption, or unless the vending machine is provided in connection with a "restaurant" or other place where "alcoholic beverages" are served. Terms in the prior sentence marked with quotation marks shall have the meanings given in 32 V.S.A. § 9202, as the same may be amended from time to time. ~~Restaurant means every eating and drinking establishment operated within the City of Burlington, including every restaurant, cafe, lunch counter, private and social club, bar, tavern, diner, cafeteria, delicatessen, sandwich shop, or other place, where any food or food products are prepared and delivered on premises to the purchaser ready to eat, or where beverages, including alcoholic beverages, are served for consumption on premises, or both, and for which charge is made. This term shall not include caterers who do not prepare and deliver food and beverages to customers at the caterer's place of business. This term shall include all sites of athletic contests, shows, performances, movies, theaters and entertainment places where food, beverages, including alcoholic beverages, or refreshments are sold for consumption on premises.~~

(K) *Sworn Statement* shall mean an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury or an accounting of gross receipts of business done as required to be filed under this section.

(IV) *TAX-WHEN DUE:*

(A) Every taxpayer subject to the provisions of this section shall file within thirty (30) days of the effective date hereof an application with the treasurer for a taxpayer identification number. This application shall contain the legal name of the taxpayer, any trade name(s) employed, the address, place(s) of business within the city, principal place of business, phone number, authorized agent for service of process, the type(s) of taxable admissions received by the taxpayer and that taxable business(es) in which the taxpayer is engaged. Upon receipt of a complete application, the treasurer shall issue to each taxpayer an identification number. Failure of a taxpayer, or anyone reasonable likely to be a taxpayer as herein defined at the time that levy of the taxes herein commences, to file for an identification number shall be a violation.

(B) The tax imposed by this section shall be due and payable commencing March 1, 1986, in monthly installments and remittance therefor shall be made on or before the last day of the month next succeeding the end of the monthly period in which the tax accrued. The remittance shall be made as provided in this section and shall be accompanied by a return on a form to be provided and prescribed by the city treasurer. The taxpayer shall be required to make a sworn statement that the information therein given is complete and true and that the taxpayer knows the same to be so.

(C) If a person fails to file a return under oath when required to do so by this section, the treasurer, with the approval of the city council, shall fix his gross receipts using any information in his possession for the period in respect to which such person has failed to file a return, and shall assess the amount of tax due including applicable penalties.

(D) The tax shall be considered delinquent on the day after it becomes due and payable pursuant to subsection (B) above.

(E) If the treasurer determines that a taxpayer has failed to pay any tax, penalty or portion thereof due under this section, the treasurer shall mail to such taxpayer a statement showing the balance due and shall add thereto a thirteen dollar ($13.00) late penalty payment or interest at the rate of twelve (12) percent per year, whichever is greater. That unpaid balance and penalty total shall be subject to interest at a rate of twelve (12) percent per year from the date of underpayment. Such interest shall accrue until the date of payment. Within five (5) days from the date the statement is mailed, the taxpayer shall pay such balance and all interest due thereon. No such demand shall be made more than four (4) years after the close of the fiscal year in which the same accrued, except"

> (1) As against a taxpayer who has been guilty of any fraud or misrepresentation of material facts; or
>
> (2) Where a taxpayer has executed a written waiver of such limitation.

(F) In the event any business subject to the tax defined herein closes or changes ownership, said business shall file a closing return with the city treasurer and pay the tax due within thirty (30) days from the time of closing or changing of ownership of said business. A closing return shall be construed delinquent if not filed within the specified time.

In the event a business referenced above fails to file a closing return, it shall be the responsibility of the successor to file the return and pay any taxes and penalties due thereunder.

(G) It shall be the responsibility of the taxpayer to advise the city treasurer of any change in the type of business or the activities carried on.

(H) The treasurer may, for good cause and with the approval of the city council, extend for not more than ninety (90) days the time for paying any sum, or a portion thereof, required to be paid hereunder. The extension may be granted at any time, provided a written request therefor is filed with the city treasurer prior to the delinquency date. Interest at the rate herein stated shall accrue during the period of extension.

(V) *PAYMENT OF TAX:* At the time the return is required to be filed under this section, the tax shall be paid to the city treasurer by bank draft, certified check, cashier's check, personal check or money order, or in cash. If payment is made by draft or check, the tax shall not be deemed paid unless the check or draft is honored in the usual course of business; nor shall the acceptance of any sum by the treasurer be an acquittance or discharge of the tax due unless the amount of the payment is in full and actual amount due. The return shall be presented to the city treasurer who shall endorse thereon the date and amount of the payment received by him and forthwith file the return in the office of city treasurer.

(VI) *EXAMINATION OF RECORDS:*

(a) The treasurer or his/her designee is hereby authorized to request, examine, audit and inspect such books and records of any taxable business as may be relevant or necessary to verify or ascertain the amount of the tax due.

(b) All persons engaged in occupations subject to the provisions of this section are hereby required to permit examination of such books and records for the purpose aforesaid.

(VII) *INFORMATION CONFIDENTIAL:*

(A) Financial information furnished or secured pursuant to this section shall be deemed confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the person charged with the administration and enforcement of this section.

(B) No officer, administrator or employee of the City of Burlington shall in any manner reveal the contents of any part or portion of the contents of any confidential information except as otherwise provided in this section, or in a legal action to enforce the provisions of this section, or pursuant to a court order.

(VIII) *RECONSIDERATION AND APPEAL*

(A) Any person aggrieved by any decision of the treasurer with respect to the assessment of any tax or penalty by the treasurer, or any person aggrieved by the refusal of the treasurer to make a refund requested under paragraph (IX), may petition the treasurer for a reconsideration within sixty (60) days after notice shall have been given such person. If a petition for reconsideration is not filed within such period, the amount of the assessment or the refusal to refund shall become final. If a petition is filed within such period, the treasurer shall reconsider his earlier action within twenty (20) days and, if the petitioner so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner ten (10) days' notice of the time and place thereof. The treasurer shall issue his final determination in writing to the petitioner within ten (10) days of the petition or the close of the hearing, whichever is later.

(B) An appeal from any decision of the treasurer issued under subsection (A) above shall be taken to the superior court by filing notice of such appeal with the treasurer. Such notice shall be accompanied by a citation to the treasurer, signed by the clerk of the court, ordering that the treasurer appear before such court. The appeal shall be returnable at the same time and served and returned in the same manner as is required in the case of summons in a civil action. The authority issuing the citation shall take from the appellant a bond or recognizance to the city, with surety, to prosecute the appeal, and to comply with the orders and decrees of the court.

Such court may grant such relief as may be equitable and may order the treasurer to pay to the aggrieved taxpayer the amount of such relief with interest at the rate of six (6) percent per annum. Upon any appeal denied, costs may be taxed against the appellant, but no costs shall be taxed against the city.

(C) If a petition or an appeal is not taken in strict conformance to this paragraph (VIII), the decision of the treasurer shall be final. The remedies provided by this paragraph (VIII) shall be the exclusive remedies of a taxpayer with respect to any decision taken under this section. Upon failure to petition or appeal as provided under this section, the taxpayer shall be bound by such decision and shall not thereafter contest, either directly or indirectly, such decision in any proceeding, including, without limitation, any proceeding brought to enforce any provision of this section.

(IX) *REFUNDS:*

(A) In the event of overpayment of any tax due under this section, the treasurer, or his authorized agent, upon written application by the taxpayer for a refund or credit filed within two (2) years after the date of such overpayment, may offset the amount of such overpayment against the taxpayer's existing tax liability under this section or certify the request for refund for the purpose of processing a cash payment to such taxpayer. Refund of overpayments as authorized in this paragraph (IX) shall be approved by the city council.

(B) No refund or credit may be allowed with respect to any payments made to the city more than two (2) years before the date of such application. Provided, however, where a taxpayer makes application for a refund or credit of any overpayment made more than two (2) years before the date of such application and such taxpayer has an outstanding tax deficiency, the amount of the refund or credit which would otherwise be allowable for the portion of the assessment period preceding the two-year period shall be offset against any such deficiency.

(X) *FAILURE TO COMPLY; FALSE RETURNS OR STATEMENTS:* It shall be unlawful for any person subject to the provisions of this section to fail or refuse to do any act required by this section. It shall also be a violation of this section for any person to make any false or fraudulent application or return or any false statement or any representation in or in connection with any such application or return, or to aid or abet another in any attempt to evade payment of the tax, or any part thereof. Any such violations shall be punished as provided in Section 1-9 of this Code including, in the city's discretion, pursuant to Section 1-9(b).

(XI) *COLLECTION OF DELINQUENT TAX:* Any tax due and unpaid and delinquent under this section, and all penalties thereon, may be collected by civil action, which remedy shall be in addition to any and all existing remedies.

(XII) *TAX AS A DEBT: The amount of the tax and penalty imposed by the provisions of this section shall be deemed a debt to the city.*

(XIII) *REMEDIES CUMULATIVE:*

(A) All remedies prescribed in this section shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

(B) The conviction and punishment of any person for violation of this section shall not excuse or exempt such person from the payment of any tax due or unpaid at the time of such conviction.

(XIV) *ADMINISTRATION RULES AND REGULATIONS:* The council shall have the power and it shall be its duty from time to time to adopt, publish and enforce rules and regulations for the purpose of carrying out the provisions of this section and it shall be unlawful to violate or fail to comply with any such rule or regulation.

(XV) *SEVERABILITY:* If any part or parts or application of any part of this section is held invalid, such holding shall not affect the validity of the remaining parts of this section.

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www.burlingtonvt.gov/plan

TO: Burlington City Council
FROM: Meagan Tuttle, AICP, Director
DATE: June 22, 2022
RE: Short Term Rental Gross Receipts Tax Analysis

The purpose of this memo is to provide an analysis of a proposed additional gross receipts tax for Short Term Rentals (STRs) operating within the City of Burlington. The City began working on a regulatory framework for STRs following the 2019 Housing Summit. A 2019 Council Resolution provided the overall policy goals for the creation of this framework: to protect the city's housing supply by limiting the number of STRs and ensuring that STRs contribute to the city's efforts to preserve and expand permanently affordable housing, while also recognizing the some STRs provide benefit to Burlington homeowners and the economy. This additional gross receipts revenue is intended to support the city's efforts to preserve and expand permanently affordable housing through the Housing Trust Fund.

STR Market Data

Since 2019, the number of STRs in the City has ranged from over 400 unique listings in 2019 to approximately 250 in winter 2021/2022. While the number had been trending upward steadily from 2016, it dropped during 2020-2021 likely due to the effects of the pandemic and slowed economic activity. In early summer activity has again increased, with AirDNA reporting 306 active listings in Burlington in May 2022. This is an increase of more than 50 active listings from April 2022.

Policy discussions for new STR regulations have centered on how to strike a balance among these goals. Of particular focus has been the circumstances in which a host may rent a whole unit STR. Since the City has been engaged in these policy discussions, the makeup of the whole unit versus rooms has shifted to greatly favor whole unit STRs. Comparing May 2019 (the highest number of citywide listings) to May 2022 (most recent data), the number of whole unit STRs have increased by 4%, while rooms rented have decreased by 54%. In May 2022, 81% (248) of listings in the city were for entire homes and 72% (220) were for entire homes featuring one or two-bedrooms.

In May 2022, 45% of STRs in the city were listed as available full time, meaning they were offered for rent at least 181 days (6 months) a year. 31% of these units were ultimately booked full time. 55% were listed as available, and 69% were ultimately rented, for less than half the year. It is unclear if those rented less than full time were doing so seasonally or intermittently throughout the year. While some of these STRs undoubtedly include seasonal homes as identified by the City Assessor or owners' private units (such as their own primary residence or an ADU on the property), the City has also heard testimony from hosts who use STRs as a tool to manage investment properties.

Relationship to Housing Targets

The guiding policy goals require a balance between both the benefits and impacts of the STR economy in the city. At present, the city and region are experiencing historic housing challenges—notably a less than 1% rental housing vacancy rate. Based on the Vermont Housing Finance Agency's 2020 Housing Needs Assessment, the Chittenden Co Building Homes Together Campaign 2.0 has identified a target of 5,000 new homes in the county in the next five years, and the City has committed to supporting 25% of that target within Burlington.

Short term rentals are not the cause of the city's housing crisis, and a new regulatory framework is not the sole policy solution to it. However, the extent that homes can be utilized for STR purposes and how they contribute to the city's overall housing solutions must be considered within the context of both long-term, chronic housing challenges as well as the acute circumstances currently impacting the housing market. Development, redevelopment, or use of a property that makes existing housing units unavailable to the long-term housing market put greater stress on public and non-profit programs as well as the private market to provide additional new and/or subsidized housing opportunities.

STRs Contribution to Housing Targets

One tool the city utilizes to protect against the loss of existing homes is the Housing Replacement requirement in the *Comprehensive Development Ordinance (CDO)*. This requires that the redevelopment or use of properties that result in the loss, demolition, or conversion of housing units for non-residential purposes must replace lost units. This may be achieved by building a new housing unit elsewhere, converting a portion of a non-residential building to residential, and/or providing a subsidy to make existing market-rate housing units affordable to low-income households. If an applicant elects to provide the subsidy, the fee amount is calculated based on the unit size and the cost to subsidize a market rate unit for 10 years. Any applicable fees are contributed to the City's Housing Trust Fund. As of June 2022, Housing Replacement costs were $8,381.71 for a 1-bedroom unit and $22,165.28 for a 2-bedroom unit.

Throughout STR policy deliberations, it was generally agreed that the nature of STRs are different from units that are lost from the market through means contemplated in the Housing Replacement ordinance. While STRs don't result in permanent removal (the physical housing units typically remain largely unchanged), they do result in at least a temporary removal of some housing units from the long-term housing market. Additionally, Housing Replacement requires that any applicable fees are paid up front and there is no mechanism to pro-rate or refund fees if an STR use is extinguished. Hosts have testified that their STRs can and sometimes do flex between long-term housing and STRs within relatively short periods of time.

Policy discussions instead focused on a tool that is responsive to the actual STR rental duration or revenue earned by hosts. Several STR hosts offered examples of transient occupancy taxes or nightly STR fees utilized by other cities. City research indicates that these range from the simple application of any hotel & tourism taxes to STRs (ex. Malibu, CA requires 12% transient occupancy tax for all lodging 30 nights or fewer), to special surcharges and nightly rates specifically for STRs (ex. Chicago, IL levies a 6% surcharge for vacation and shared rentals on top of 4.5% city hotel tax, and Portland, OR assesses a $4/night/guest STR fee for affordable housing on top of combined 14.5% city/county lodging & tourism taxes).

In order to meet the policy goal that STRs contribute to efforts to preserve and expand permanently affordable housing options, the City intends to assess an additional 7% gross receipts tax on short term rental revenue. This increment will be applicable to STRs as defined by the proposed changes to *Chapter 18- Minimum Housing* and the *Comprehensive Development Ordinance*. This is in addition to the existing 2% city gross receipts tax and the 9% Vermont Rooms & Meals tax on existing lodging activity. New revenue collected from STR purposes will be dedicated to the Housing Trust Fund, to be leveraged to support the creation and preservation of affordable housing within the city.

Unlike the Housing Replacement standard, the additional increment of gross receipts tax will only be charged when an STR is booked. While this does not address STR listings that are not rented while they are being advertised for STR purposes, it is more fair and responsive to the actual duration of use as an STR and the revenue earned by the host. Had the Housing Replacement standard applied to STRs, the replacement fee would be required upfront resulting in larger one-time contributions to the Housing Trust Fund. The additional gross receipts revenue will instead provide a smaller and more intermittent funding source, with potential to provide a longer-term, more incremental impact. For reference, the average 1-bedroom STR would take two to four (or more) years to generate similar revenues to the 2022 Housing Replacement fee, depending on the frequency of the STR use. A 2-bedroom STR would take four to seven (or more) years.

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CITY OF BURLINGTON, VERMONT
OFFICE OF
THE CITY ATTORNEY
AND
CORPORATION COUNSEL

Date: 7/9/25
To: Burlington City Council
From: Emmett Wood, Assistant City Attorney
Re: The Proposed City Circle Ordinance

Introduction:

Historically, the City Attorney's Office has been responsible for prosecuting both civil and criminal ordinance violations. The office significantly scaled back its prosecutorial duties in the last decade as the result of both City directives and consistent staffing issues. Despite this internal change in prosecutorial process, the office is still empowered to act on these duties through both Statute and the City Charter.

In more recent years, stakeholders in the City of Burlington have been contemplating the best ways to address the perceived disconnect between the importance of a municipal violation and the priorities of those who are most often engaging with the ordinance violation process. The City Attorney's Office is now proposing an ordinance which would change the process by which the City engages with individuals who stand accused of having caused harm in their community by violating city ordinances. This proposed ordinance is an update in prosecutorial process which would introduce the concept of a "City Circle," a rapid restorative response to undesirable and harmful behavior in Burlington.

Legal Authority

State Law:

Municipal and County Government is addressed in Title 24 of the Vermont Statutes. Specifically, 24 VSA § 1974 (a)(1) dictates that the violation of a criminal ordinance adopted by a municipality shall be considered a misdemeanor. Further, prosecutions of such criminal municipal violations are to be brought before the Court by a municipal attorney, or a designee of the municipality's legislative body.

City Law:

Article 21 of the City Charter empowers the City Council to establish penalties for ordinance violations. "The violation of an ordinance, regulation or by-law adopted by the city, including, without limitation, zoning and subdivision by-laws adopted pursuant to chapter 117 of Title 24 of the Vermont Statutes Annotated, as the same may be amended from time to time, may be prosecuted as a criminal or civil action.

Request: As the result of continued conversation and collaboration among stakeholders throughout the City, the City Attorney's office has worked with the Community Justice Center to propose a City Circle pilot program. This program is intended to encourage a restorative response to ordinance violations within the City and to provide vulnerable individuals with resources to attempt to solve the underlying issues leading to repeated violations. However, the program also provides for traditional criminal misdemeanor prosecution, to be heard in Superior Court, if individuals choose not to engage with the restorative process. In order to continue the process of collaboration on and implementation of this program, the Office of the City Attorney respectfully requests that the City Council waive the first reading of the City Circle Ordinance and refer it to the ordinance committee.

Proposed Motion: "To waive the first reading of the proposed City Circle ordinance and refer it to the Ordinance Committee for review."

CITY OF BURLINGTON

ORDINANCE ____________
Sponsor: Office of the City Attorney
Public Hearing Dates: ___________

In the Year Two Thousand Twenty-Five

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

ESTABLISHING CITY CIRCLE
BCO Chapter 1, Section 10

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

That Chapter 1, General Provisions, of the Code of Ordinances of the City of Burlington be and is hereby amended by amending Section 10, Prosecution Where Different Penalties Exist for Same Offense; to include a new subsection regarding City Circle to read as follows:

1-10 Prosecution and City Circle~~where different penalties exist for same offense~~.

(a) *Prosecution where different penalties exist for same offense.* In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the city, the city attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

(b) *City Circle.* The Office of the City Attorney, in consultation with the Community Justice Center shall create a restorative justice program to address criminal and civil ordinance violations in the city of Burlington. This program shall be referred to as the "City Circle."

(1) *Rules and Regulations.* The Community Justice Center shall consult with the City Attorney's Office to establish the rules and regulations which will govern this restorative justice program. Such rules and regulations, and any future amendments thereto, shall be subject to approval by the City Council. Once approved, the rules and regulations shall be posted on the webpage maintained by the Community Justice Center.

(2) *Citations.* A person who is found by a Law Enforcement Officer to be in violation of Burlington Code of Ordinances 21-24; 21-29; 21-30; 21-37; 21-38; 21-45; 21-46; 21-47; 21-48; 21-49; or any other ordinance as deemed appropriate by the Office of the City Attorney in consultation with the Community Justice Center shall be issued both a citation informing them of the ordinance that they have violated as well as a citation informing them that they must report to the next meeting of the City Circle. The City Circle citation is to include the time and place in which the City Circle is to occur.

(3) *Meetings.* City Circle Meetings shall be held on a weekly basis at a location to be determined by the City Attorney and the Community Justice Center.

(4) *Failure to attend*. If an individual fails to attend their City Circle meeting as scheduled, civil ordinance violations will be forwarded to the Judicial Bureau. Criminal ordinance violations will be forwarded to the Superior Court, and the individual will be expected to appear for an arraignment on a misdemeanor violation of city ordinance. If the individual fails to appear at Superior Court, the assigned prosecuting attorney may request a warrant.

* Material stricken out deleted.
** Material underlined added.

EW/Ordinances 2025/City Circle/BCO Ch. 1, Subsection 10
Sec. 1-10
7/9/2025