



Burlington City Council Ordinance Committee 12/19/2017

BURLINGTON CITY COUNCIL ORDINANCE COMMITTEE

Tuesday, December 19, 2017

Fletcher Free Library, Fletcher Room, 2nd Floor

235 College St., Burlington, Vt.

5:30 p.m. – 7:30 p.m.

****MINUTES ****

Present: Chair Chip Mason (CM), Sharon Bushor (SB), Ali Dieng (AD)

Absent: None

Other City Staff: Gene Bergman (GB) (Staff Attorney), Norm Baldwin (NB) (Department of Public Works (DPW) Asst. Dir.- City Engineer), John Ryan (JR) (DPW, Plumbing Inspector), David E. White (DW) (Planning & Zoning (PZ) Dir.)

Public: None

CM called the meeting to order at 5:36 p.m.

1.
 - i. **Agenda:** SB moved the agenda, AD seconded, and it was adopted unanimously, 3-0.

2.01 Public Forum: No one was present to speak.

3.01 Approval of OC Minutes of 12/05/17: SB moved to approve the December 5, 2017 minutes with the following amendments: removed Brandon del Pozo as an attendee, and in item 4.03 change "make it" to "to establish" in the second to last line of the second paragraph. AD seconded and the minutes were approved unanimously as amended, 3-0.

4.01. Proposed Amendments to Comprehensive Development Ordinance re ZA #17-17, Retaining Walls

DW said this amendment's purpose is to address how retaining walls specifically are treated. Currently, the ordinance doesn't specify what kind of wall is covered and this creates that specificity. The need is to give clarity as to what the approval process is based on the size of the retaining wall and its location.



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SB noted the discussion in the staff memo (see file) on other communities and asked, Why we picked 5' height; Is 2' adequate; and Did anyone look at the shadows cast by the walls on surrounding properties in relation to the 5' heights or 2' setback?

DW said shadow impacts were not specifically analyzed. He said he was not sure why the Planning Commission picked 5' for the height threshold and that the 2' setback was adequate. SB asked how long the wall could be and DW said there was no length limit set. The height limit is to deal with the threshold on when an application has to go to conditional use review. He feels the 5' height would not cause a shadow impact on a neighbor. SB wondered if a 5' wall ran the whole length of the property and it was just 2' away from the property line if it would cause a problem with sunlight for the neighbor. DW indicated he didn't think so.

NB said DPW just had an experience with a failing wall and that problem was made worse because the wall was right on the property line and so it was hard to tell who was responsible to repair the wall. The 2' setback is important to avoid that problem.

AD asked for a definition of a retaining wall. CM gave an example and asked, What would a person have to do on the replacement of a wall if all the material replaced and size was the same? DW said no permit would be needed. CM asked about the DRB process and DW said there would be notice to neighbors and design criteria to meet if the wall was at a certain height. SB asked about the process for small walls and DW said there'd be a Z card and that would give neighbors the chance to complain or provide PZ staff with feedback as to whether or not to administratively approve an application.

Action: On SB's motion and AD's second, the committee unanimously approved, 3-0, the ordinance as previously recommended to be amended by PZ staff (delete "side or rear" from line 22, "side or rear yard" from line 23, and "side or rear" from line 24) and referred it to the City Council for Public Hearing, 2d reading, and adoption as amended, with a recommendation of approval.

4.02 Proposed Amendments to BCO Chapter 25—Plumbing

GB noted that he had worked with the Plumbing Inspector for a significant period of time on this updating of the current plumbing ordinances. The codes and rules referenced in the current ordinance are out of date and the goal in large part is to remove those sections and incorporate the currently enacted Vermont plumbing rules and codes as the City's plumbing code. Much of the other amendments are intended to clarify the ordinances and fill in the gaps. The DPW officials can speak to the particulars.

NB said that DPW has done the same with the building and electrical code ordinance chapters; the adoption by reference of the currently adopted state code is the best way to have our ordinances kept up-to-date. The changes also clarify the search warrant requirement and the process of appeal (unifying the plumbing ordinance with the building appeal ordinance). The duration of a permit to one year is also shortened to eliminate the problem of old, open permits; this is



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recommended because there is an easy way to extend a permit and there is no extra cost to extending a permit. The problem with having open permits of longer durations is that issues don't get resolved in a timely fashion and that leads to issues when buildings get sold. CM asked if plumbers have weighed in on this and voiced any objections or concerns. JR said they are well aware of the state code. NB said they can reach out to plumbers to see if there are objections or concerns and if there are, then that can be dealt with before the ordinance goes to the council for adoption

CM asked about the search warrant mandatory language in the circumstance where a problem is worked out and no warrant is, therefore, needed, and GB said the words ", if still appropriate," can be added on lines 139-140 and 161.

SB asked if the term "plumbing inspector" should be defined and have the inspector's qualifications described in the ordinance. NB and GB said that they think it is unnecessary. SB suggested we remove the word "city" on line 233. CM asked staff to define plumbing inspector and plumbing code official in a manner that is not overly prescriptive and staff agreed.

SB asked, regarding line 104, if the word "may" should be replaced with "shall". She wondered how the inspector would know that the change was approved. SB and CM said to remove the sentence "This approval . . . documents." On lines 104-105.

SB asked about lines 297 and 298 and the meaning of the words "old or new buildings." GB explained. No change was made.

CM asked for an explanation of the context of the changes to the "building (house) trap" (see line 238) and JR explained.

Action: On SB's motion and CM's second, the committee approved, 3-0, the ordinance as amended (add to § 25-2 definitions for plumbing inspector and plumbing code official drafted by staff; add "if still appropriate" on lines 139-141 and 161; remove "city" on line 233; and remove the sentence on lines 104-105 starting with "This approval") for second reading and adoption by the Council.

5.01 Any Other Business—Next Meeting 1/9/18 @ 5:30 pm to discuss proposed ordinance repeals re quality of life, revised library rules ordinance, and a memo and draft ordinances on the city property trespass ordinances (if possible)

6.01 Adjournment: 6:51 pm





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Committee Members: Councilor Chip Mason, Chair
 Councilor Sharon Bushor
 Councilor Ali Dieng