



Burlington City Council Ordinance Committee ***Virtual Meeting*** 10/13/2020

City Council Ordinance Committee Minutes

10/13/2020 via Zoom

Participants:

- Councilor Mason (Chair), Councilor Hanson, Councilor Hightower
- Staff: Bill Ward (Director, Dept. Permitting & Inspections), Tim Devlin (Assistant City Attorney), Kim Sturtevant (Assistant City Attorney, joined at item 4.02)
- Public: Gene Bergman, Sharon Bushor

Meeting called to order at 5:03 PM.

1. Agenda

1.01 Motion to adopt the agenda

Motion to adopt agenda by Councilor Hanson, seconded by Councilor Hightower à motion passes unanimously.

2. Public Forum

2.01 The Public is invited to speak

- Gene Bergman:
 - Speaking to BCO Sec. 18-113 Parking Plan Required: Wants Parking Disclosure. Less-on street parking because of lack of parking on rental properties. Wants Committee to reconsider zoning permits.
 - Speaking to Landlord Licensing: Overall necessary, and details are extensive but has concern over whether have authority. Licensing will assist enforceability of existing ordinances. A Charter change is necessary.
- Sharon Bushor:
 - Speaking to BCO Sec. 18-113 Parking Plan Required: Currently there is parking registration, and currently collect information about max number of vehicles on premises. Concerns about compliance and accuracy of information on forms. Want add a requirement of parking plan being posted. Rationale: 1. Climate: Soil compaction leads to run-off into lake; 2. Renter quality of life: tenants have right to know parking arrangement. DP&I had concerns about SOL for non-compliance because would be overwhelmed by



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applications and would not be able to enforce. Wanted temporary staff to jumpstart initiative, but Mayor did not support. Still have long-term plan for plans, but now advocate rolling out enforcement when called for violation.

- Speaking to Landlord Licensing: wanted item sent to CDNR committee, but still want ordinance committee to consider. Need more of a "stick" than a "carrot". If doing business in Burlington, then property owner should have a license. If not compliance, could suspend or revoke license. Licensing can be based on registration system; an augmentation. First step is to get authority to license, which will require charter change. Sharon Bushor met with Landlord group and it went well. Provided packet has example ordinances from Michigan—Berkley.

Closed public forum at 5:23 PM.

3. Minutes

3.01 Approval of Minutes of 9/28/20

Motion to approve by Councilor Hightower, seconded by Councilor Hanson à motion passes unanimously.

4. For Committee Discussion/Possible Action

4.01 Landlord Licensing

- Councilor Mason: History: No action by Community Development and Neighborhood Revitalization (CDNR); confirmed by Councilor Hightower. This is an atypical process because this needs a charter change. There is a question about what we are supposed to do at this time. Question to Bill Ward: what is the current registration system? How would a license process be different from registration system?
- Councilor Hightower: CDNR did briefly discuss, only primarily cause evictions. Should bump it up to CDNR's agenda.
- Councilor Hanson: A supporter of Landlord Licensing. Serves as a protection that Landlords are respecting rights of tenants. City should play a proactive role, more than just leaving tenants to selfadvocate.
- Councilor Mason: Councilor Hanson, do you mean only condition of property?
- Councilor Hanson: Yes, conditions, but also misinformation in tours, leaseprocess, utility payments, not getting full security deposits back, notice of renewal. While Housing Board of Review does a good job, many people do not know how to utilize it.
- Councilor Mason: But Landlord Licenses materials do not get to any of Councilor Hanson's points. Those fall outside of the licensing components. It is worth, check if we have systems to deal with these problems, are the systems working?
- Councilor Hanson: We can incorporate these items into Landlord Licensing. Should perhaps start with Charter Change.
- Councilor Mason: Make referral to Charter Committee?
- Councilor Hanson: Yes.
- Councilor Mason: As drafted, was this intended to cover all rentals, regardless of term? Also, the term "Engaging in



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the business” has other legal meaning.

- Sharon Bushor: Regarding an exemption for “small landlords,” while not defined (was a reference to Harrisburg, PA), the Committee should determine what those parameters would be. More work to be done regarding application. “Engaged in the business” meant generally to mean morethan-one rental unit, but not ready to define in certain today.
- Councilor Mason: To Bill Ward: Do we need this if objective is to deal with Landlord compliance?
 - 1. Can Landlord registration survive challenge?
 - 2. Can we deal with violations?
- Bill Ward:
 - 1. Landlord registration has not yet been challenged.
 - 2. Depends on numbers. Staff deem between 1-2% of Landlords are problem, that is routinely non-compliant. Perhaps Housing Board does deal now. Reluctant to have new scheme with additional fee, which will be passed on to tenants. What happens to tenants if Landlord does lose license? Better to focus on improving the current system. e.g. 1-5 year certificate of compliance, with higher term based on better compliance. We currently do not qualify Landlord as good or bad, but do feel that could create an average across body of properties.
- Councilor Mason: What would happen if one were to lose license? What if one property is not in compliance, but the other 14 are in compliance? Are tenants displaced in all properties? How do we avoid punishing tenants?
- Sharon Bushor: Intent was only to displace tenants in one affected property, not other 14 properties.
- Councilor Mason: So what is the utility of this ordinance?
- Councilor Hanson: Has a different perspective of scale of problem than Bill Ward. Is a pervasive problem. Problem with power dynamics. e.g. one Landlord had 88 violations.
- Councilor Mason: Then how does Landlord Licensing change that?
- Councilor Hanson: Does provide accountability. Prevents Landlord from racking up violation, which reflects boarder behavior.
- Councilor Mason: But how is this different?
- Councilor Hanson: The threat of losing license is graver than having to pay penalties at Housing Board.
- Councilor Mason: Do we have data on Landlord compliance? Could it be produced?
- Bill Ward: It is difficult to determine Landlord behavior based on few units, compared to greater. Could break it down based, on unit numbers. But the lower the units, the more anecdotal the data. This also would be backwards looking, rather than forward, because of inspections are limited in COVID. Currently, owners are being given more time to comply.
- Councilor Hightower: Landlord noncompliance is pervasive. Also question the effectiveness of a Landlord Licensing system which may not have teeth. Still not sure which problems are trying to be addressed, and so do not know if licensure is the best solution. This needs more research. Regarding process: currently language is too vague to send to Charter Change Committee; need further development.
- Gene Bergman: The City currently operates on the edge of authority: BCO 1820 (Housing) provisions re suspension and revocation provisions (1820 Suspension and revocation of certificate). Past criminal prosecution of LL; judge said was outside authority of City that saying violation of order was a violation of ordinance. Need a specific sanction. Enforcement is an inept route, because fines are too low. 1820 is effectively a Landlord Licensing system. Not sure that 24 V.S.A. Ch. 123 is a strong basis to ground 1820, especially 18-20(b)(Revocation). Licensure captures moral turpitude when licensing borrowers. Licensure creates a structure.
- Councilor Hightower: To Gene Bergman: How does license based on property affect a criminal prosecution?
- Gene Bergman: If we had licensure, and there were numerous violations, this would bolster the authority.
- Sharon Bushor: The power of licensing resides in the ability suspend the license. If the City takes over the property, the City gest the money and not the owner. While the number of noncomplying owners may be few, the total number of properties they own is high, and so issue of non-compliance is pervasive.



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- Councilor Mason:
 - Should take this up next committee meeting.
 - To Tim Devlin: Does the City Attorney have any Opinion on 18-20 provisions?
 - To Bill Ward: we should get more robust data.
- Councilor Hanson: Large Landlords are repeatedly negligent. Only a select few tenants to take noncompliance through system. And the "punishment" is merely becoming compliant. Both of these lead to Landlord ignoring most noncompliance. Landlord Licensing would help solve this.
- Councilor Mason: What are our next steps?
- Councilor Hanson: Send to Charter Committee.
- Councilor Hightower: Hesitate to send to both CDNR and Charter Committee at same time. Should be one, not two, but do not know which.
- Councilor Mason: take it up again next meeting, and not send to Charter Committee until we get further information.
- Councilor Hanson: Bill Ward to look into security deposits in particular.
- Bill Ward: Should also involve Lisa Jones in City Attorney's Office.
- Councilor Mason: To City Attorney, is there a legitimate basis to deny a license based on numerous violations for security deposits?

4.02 BCO Sec. 18-113 Parking Plan Required

- Bill Ward: Focus is on new rental registrations; no objections going forward.
- Councilor Mason: Concern about signage for parking plans.
- Councilor Hightower: Does new language apply to all units?
- Gene Bergman: Making changes to signage makes sense. Advocating phasing in, e.g. by ward, by size, ward density (with least) parking. Information to tenants is important for consumer protection. Ask for DP&I and City Attorney to create phase in language.
- Councilor Mason: Agree with changes to 1. signage and 2. phasing in.
- Councilor Mason: To make a point, that just because a Landlord has a parking plan, does not mean that a tenant gets to park there.
- Sharon Bushor: Intent was parking plan were to be made to tenants and to make tenant aware of availability offstreet parking. Support phase in targeting high-density areas. Also should say offstreet parking is not guaranteed.
- Councilor Hightower: Advocate posting in physical area and also in advertising of apartment.
- Bill Ward: Would rather have implementation based on initial feedback rather than citywide phase-in. Would rather focus on violators, and that parking plan will be part of site plan/settlement agreement.
- Councilor Mason: How to effectuate a notice of violation? New construction and also violators.
- Bill Ward: Include in violation agreements.
- Kim Sturtevant: Not in ordinance, but could be added to revisit.
- Councilor Mason: Supportive of sending back to full City Council, provided they add language to 18113(a) about adding a report back within a year.
- Councilor Hightower: Advocates for a phase in starting now, rather than a pilot program. Tweaks can happen on a rolling basis.
- Bill Ward: With thousands of compliant properties, assumption is Landlords are effectively communicating parking to tenants. We do not know why certain Landlords are complying, and we want to know why there is high



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compliance rates before introducing another plan that may lead to less compliance.

- Councilor Hanson: Agree with Councilor Hightower.
- Councilor Mason: Involves significant staff time from DP&I, BFD for review and implementation (with likely 600 properties), that will likely require a fee, which will likely be passed on from Landlords to tenants.
- Councilor Mason: As written, DP&I and BFD both have to review.
- Bill Ward: Better to finetuned, because most units this would apply to, are single driveway. Would be overkill and more work for BFD.
- Gene Bergman: We have met with Bill Ward already to get language.
- Councilor Mason: Is there need for consultation with Fire Marshal? (referencing 18113(b))
- Gene Bergman: Amenable to changing. May be based on size. Could make amendment for existing rental units.
- Councilor Hanson: We already agreed to remove Fire Marshal review.
- Councilor Mason: Solves concerns on staff resources. Still do not know what phasein looks like. Bigto-small? Some other metric? Phasein becomes less of an issue.
- Bill Ward: If accompanying the registration form with the existing zoning plan on file.
- Councilor Hanson: Acceptable to only post in lease, but not submit with registration.
- Councilor Mason: Unless reviewed by city, then toothless. Would leave it to breach of contract between Landlord and tenant.
- Councilor Hanson: Having only landlords post plan and attach to lease. All new units would be reviewed by City. Also a phasein.
- Bill Ward: Problem with allat-once (and even phase-in) is that Landlords will take much city staff time in fielding questions.
- Councilor Hanson: Can bring updated language. Can send an advance explanation.
- Kim Sturtevant: Concern with phasein: initial workload of unapproved site plans, then appeals of decisions, then court proceedings.
- Gene Bergman: Not all requirements for existing units, only disclosure.

Motion to table item "BCO Sec. 18-113 Parking Plan Required" until next meeting of the Ordinance Committee by Councilor Hanson, seconded by Councilor Mason à Motion passes unanimously.

5. Any Other Business

5.01 Next Meeting(s) and Items to review

Setting of next meeting. Thursday, 10/29/2020 at 5:30PM.

6. Adjournment

6.01 Motion to Adjournment

Motion to Adjourn made by Councilor Hanson, seconded by Councilor Hightower à Motion passes unanimously.



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Meeting adjourns at 7:16 PM.

