



CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT &
NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

Councilor Brian Pine, Chair, Ward 3
Councilor Sarah Carpenter, Ward 4
Councilor Zoraya Hightower, Ward 1

Thursday, October 8th, 2020
5:30 PM – TBD

You are invited to a Zoom webinar.
When: Oct 8, 2020 05:30 PM Eastern Time (US and Canada)
Topic: CDNR Committee Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84371426270>

Telephone: +1 929 205 6099

Webinar ID: 843 7142 6270

To participate in public forum please email Christine Curtis before or during the meeting: ccurtis@burlingtonvt.gov. Comments can also be made during the meeting by using the raise hand function or the chat function.

Draft Agenda

1. Review Agenda
2. Public Forum
3. Language Access Plan
4. Just Cause Eviction (continued)
5. Approve Draft Minutes: 5/6, 5/20, 6/3, 7/15, 7/27, 8/5
6. Next Steps

The programs and services of the City of Burlington are accessible to people with disabilities.
For accessibility information, call 865-7144. For questions about the meeting,
contact Christine Curtis at ccurtis@burlingtonvt.gov



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Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Luke McGowan, CEDO Director

Other Attendees: Eric Farrell and Jessica Laffal, Farrell Properties, Erhard Mahnke, Coordinator for the Vermont Affordable Housing Coalition (VAHC), Ian Jakus

Wednesday, May 6th, 2020
5:30 PM – 7:00 PM
Virtual Zoom Meeting

Draft Minutes

Meeting Started at 5:35 PM

1. Review Agenda

Councilor Pine made a slight change to the agenda to add a presentation by Luke McGowan, director of CEDO, after the Cambrian Rise presentation, council agreed.

2. Approve Minutes

No prior minutes to approve.

3. Public Forum

Question from the public in the chat room: How about CDNR paperwork from February that wasn't addressed?

Councilor Pine explained the previous discussion had been delayed for a number of reasons, including COVID-19, and that the topic would be added to an agenda for discussion later in the year after new committee members had access to review the previous discussion.

4. Discussion and Recommendation of First Amendment to Development Agreement with BC Community Housing, LLC (Cambrian Rise) (Eric Farrell and Jessica Laffal, Farrell Properties)

Eric Farrell, owner and developer of Cambrian Rise asked the Councilors to amend the development agreement from 770 housing units to 950 units with 25% of the new 180 units still being inclusionary, in order to follow market trends in housing size.

The Councilors took turns asking questions about changes that have taken place since the development agreement, how community spaces will work in terms of being open to the public vs residents only, the dues/management structure, and current status of development.

A draft resolution was presented by Luke McGowan, Director of CEDO, recommending amending the development agreement as it creates more housing as well as a new accessible bike path, stating the project has CEDO's full support.

MOTION by Councilor Carpenter **SECOND** by Councilor Hightower to take the resolution to City Council at the next meeting on May 18th

VOTING: Unanimous; motion carries

5. Update to CDNR on the Entitlement 2020 and Coronavirus Funds

Luke McGowan, CEDO Director, proposed presenting council with an amendment to the ENT 2019 plan as per HUD's recommendations. CEDO has \$765,415 for Entitlement (ENT) 2020, and received an additional \$450,256 in April as a part of the CARES Act for Coronavirus (CV) response and recovery efforts.

CEDO has accepted CDBG ENT20 applications, convened the advisory board, and now needs CDNR for input. Next steps are to publish the following in Advance of the May 18th City Council Meeting: revised Citizen Participation Plan, substantial amendment to the 2019 Action Plan to add the additional CV funds, and draft 2020 Action Plan. The goal is to get City Council and Board of Finance approval on June 1st, and submit to HUD by June 5th. HUD has 45 days to provide approval once the action plan is received.

HUD has allowed CEDO to revise our Citizen Participation Plan to allow virtual public hearings, reduction of public comment period to less than 30 days, provided guidance on a number of waivers to standard CDBG/HOME regulations, and lifted the Public Service Cap of 15% for ENT years 19 and 20 (including for the additional CV funds).

The previous plans for the 2020 CDBG funds (\$765,415) will continue with four new areas added as a response to CV: rental assistance

(\$250,000), small business relief (\$250,000), low barrier shelter (\$100,000), food access funds (\$100,000). The additional CV funds will be split 50% rental assistance program 50% small business support, and \$340,000 from the city's own emergency allocation is planned to support the food relief fund and opening of a low-barrier shelter.

Erhard Mahnke, coordinator for VHAC, asked a few questions about how the rental assistance program will be created and administered, by who and how. Luke said the city is working with the state on fund allocation, and it will likely be run through CEDO if that seems best.

6. Discussion of Committee tasks left over from last year and priorities going forward

Committee ran out of time for this agenda item and agreed to push it to a future agenda.

7. Next Steps

Councilor Pine proposed the committee meet every two weeks in order to resolve tenant protection issues which were a top priority in February and are now urgent. Council agreed and the next meeting dates are set for May 20th and June 3rd.

Adjournment

Committee adjourned at 7:05 PM

VOTING: unanimous; motion carries.



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Councilor Zoraya Hightower, Ward 1

Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Ian Jakus, CEDO; Patti Wehman, Housing Manager of Permitting and Inspections, Councilor Ali Dieng,

Other Attendees: Carina Driscoll, Burlington resident; Jess Hyman, Champlain Valley Office of Economic Opportunity (CVOEO); Christie Delphia, Burlington Tenants Union; Devon Ayers, Vermont Legal Aid; Sebastian Rider, Burlington resident;

Wednesday, May 20th, 2020

6:00 PM –7:30PM

Virtual Zoom Meeting

Draft Minutes

Meeting Started 6:00PM

1. Review Agenda

Agenda is approved as presented

VOTING: unanimous; motion carries.

2. Public Forum

Public Forum opened with a letter submitted from Carina Driscoll, Burlington resident, about urban homesteading and suggestions that the city might consider to loosen restrictions and promote self-sufficient agriculture. [See Attached](#)

Jess Hyman, CVOEO, invited members of the committee and the public to attend the virtual Fair Housing Project meetings every Friday.

Councilor Ali Dieng asked for CDBG data, particularly how many Burlington residents are supported by block grant funds? Councilor Pine said that data is hard to calculate due to the nature of the grant going to assisting people who are homeless, business owners who may live outside Burlington, etc. Dieng also asked about specific community led programs which receive funding, to which Councilor Pine said the CDBG funds are severely restricted and cannot typically be used at a neighborhood level, and

are limited to be used to support activities that support low- and moderate-income residents. Councilor Pine proposed to invite a CEDO staff member to the next meeting who was able to better answer these questions.

With no further comments from the public, forum closed.

3. Continued Discussion on Tenant Protections

Christie Delphia, Burlington Tenants Union, presented a letter to the committee that outlined their recommendations on improving tenant rights and protections. [See Attached](#). The BTU sees five main areas that will provide immediate and significant relief to the housing crisis:

1. Increasing the Power and Scope of the Housing Board of Review
2. A Code Enforcement Department That Works for Tenants
3. Enacting Rent Control
4. Enacting Just Cause Evictions
5. Safe Parking, Safe Camping

The BTU also has four demands to address tenant protections:

1. “Ban the Box”, which refers to removing a number of questions on rental applications which prevent LMI people from obtaining housing
2. Increase the penalty on all improperly withheld security deposits
3. Expand the retaliatory eviction ‘clock’
4. Publicize the database of landlords, Certificate of Compliance, rental registration, and code violations

The committee discussed the suggested changes based on their feasibility and methods required. The committee said that some of the changes can be done by city council, and some will require a charter change through the state, and they will need to decide which goals are short term and which are long term based on the process required.

Devon Ayers, Vermont Legal Aid, commented that though some will require charter change, does not mean it should not be pursued, even if it takes longer. The committee agreed and said they would need to come up with a timeline for which of them are short term goals and can be accomplished sooner, as opposed to the long term goals which require time.

The committee agreed that these issues would need to be divided into meeting topics, and appropriate people and agencies be invited so that a fuller discussion can be had. The committee agreed to set aside every other meeting for tenants’ rights discussions and the other for regularly scheduled committee agenda items.

Councilor Hightower asked about the process of inviting other agencies and city staff to committee meetings for answers and input. Patti Wehman, Housing Manager for Permitting and Inspections, said inviting people within the city is fairly easy.

Councilor Dieng expressed support for inviting experts to the appropriate meetings, and suggested that the committee take a resolution to council to see what can be done from a legal standpoint.

Ian Jakus, CEDO, gave the new council members background information on the research and recommendations from CEDO. Three of the recommendations from CEDO

were to improve the accessibility of code enforcement data, strengthen minimum housing standards, and requiring landlords to give tenants information on their rights upon lease agreement.

Patti clarified that code enforcement can only control behaviors that violate city ordinances, or can be reported to the police, as they only enforce minimum housing standards, not quality of life.

The committee agreed that the first topic to focus on for the next meeting is the Housing Board of Review, and “just cause eviction” and to invite members from the HBR to attend for discussion.

Christie Delphia, BTU, expressed frustration that codes are enforced based on personal interpretations and not as they are explicitly written.

Sebastian Rider, Burlington resident, expressed frustration that they feel codes are not being enforced and that every year the quality of life and livability gets worse. Rider said that when they call Burlington Police Department, no one shows up.

5. Next Steps

The committee agreed to meet again in 2 weeks, and that the Housing Board of Review will be the focus for next meeting. It was decided that in the meantime, councilors will communicate with the City Attorney’s office and HBR members. Councilor Pine will come up with a schedule and suggested agendas for the next few months’ meetings.

Adjournment

Committee agreed to adjourn the meeting at 7:35PM

VOTING: unanimous; motion carries.



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Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Ian Jakus, CEDO; Bill Ward, Directory of Permitting and Inspections; Patti Wehman, Housing Manager of Permitting and Inspections; Josh O'Hara, Housing Board of Review Chair; Patrick Kearney, Housing Board of Review Member; Betsy McGavis, Housing Board of Review Member; Patrick Murphy, Housing Board of Review Member

Other Attendees: Ben Traverse, former Housing Board of Review member; Christie Delphia, Burlington Tenants Union; Sandrine Kibuey, CVOEO; Devon Ayers, Vermont Legal Aid; Angela Zaikowski, Director of Vermont Landlords Association; Erhard Mahnke, Vermont Affordable Housing Coalition; Keith Pelsbury, Burlington resident; Caryn Long; Burlington resident

Wednesday, June 3rd, 2020
6:00 PM –7:45PM
Virtual Zoom Meeting

Draft Minutes

Meeting Started 6:00PM

1. Review Agenda

MOTION by Councilor Pine, **SECOND** by Councilor Carpenter, to adopt the agenda as presented

VOTING: unanimous; motion carries.

2. Public Forum

Public Forum opened with comment from Caryn Long, Burlington resident, expressing frustration that codes are not enforced and that the neighborhood feels unsafe to walk through.

Councilor Carpenter gave clarification that the discussion at hand was largely on what the Housing Board of Review currently does, and how it could be expanded as per CEDO's recommendation.

With no additional comments entered, forum closed.

3. Overview of Housing Board of Review

Committee opened the discussion with a presentation by the Housing Board of Review led by the chair, Josh O'Hara, on what the current role of the board is. O'Hara described the function of the board as low cost judicial process for tenants as a means to alleviate the costs and burdens associated with small claims court. O'Hara stated the majority of their cases are related to security deposit disputes between tenants and landlords, as well as minimum housing standards enforcement violation appeals.

Councilor Carpenter asked the board about their volume of cases and how many are related to minimum housing standards. Josh O'Hara described the volume of cases as security deposit cases between three times more frequent than minimum housing standards and that the board saw less than ten cases each year for the last five years. O'Hara described these minimum housing standard cases as being mostly filed by landlords seeking an appeal or extension to a violation notice.

Councilor Carpenter asked the board what they do to educate tenants on their rights, if anything. Members of the board described their various efforts as raising awareness for their services through the CVOEO tenant hotline, Vermont Apartment Owners website, Vermont Housing Authority website, educating tenants on a case by case basis, and doing an annual campaign with UVM's Office of Student and Community Relations for off campus student outreach.

Patti Wehman, Housing Manager of Permitting and Inspections, suggested increasing awareness of tenants' rights by distributing a handbook to landlords for their tenants at the time of lease agreement. An existing handbook created by the Vermont Apartment Owners association was discussed as needing updating before redistribution.

Josh O'Hara commented that the Housing Board of Review does have a role in increasing tenants' awareness of their rights, however their main priority is as a judicial board.

Devon Ayers, Vermont Legal Aid, commented that their website is a good resource for tenants and is as up to date as possible.

Sandrine Kibuey, Champlain Valley Office of Economic Opportunity, commented that CVOEO has a tenant hotline as well as an extensive website with materials and resources.

Angela Zaikowski, director of the Vermont Landlords Association, described a few issues with having landlords mandated to distribute handbooks as it being costly due to the cost of printing the materials, as well as difficult to mandate due to leases not being required. Angela suggests increasing access to the Vermont Housing Authority online handbook which is kept as up to date as possible.

The committee continued the topic of how the Housing Board of Review can be expanded in their judicial role to assist tenants beyond security deposit disputes. HBR members suggested creating a new form for tenants to file an appeal in order to increase accessibility.

Ben Traverse, commented that the board is likely hesitant in giving suggestions on expanding their powers due to their responsibility to being judicial and impartial, and Traverse would like to volunteer to work with the committee on this issue.

Bill Ward, Permitting and Inspections Department Director, drafted a possible postcard which could be given to tenants by codes enforcements after complaint is made so that tenants are aware of their right to an appeals process and protection from retaliation.

The committee opened the discussion to the public. Erhard Mahnke of the Vermont Affordable Housing Coalition, suggested increasing transparency in code enforcement data if possible, requesting additional funding to keep the information updated, duplicating the mention of resources on every website possible, and hosting tenant/landlord education workshops to increase understanding.

Keith Pelsbury, Burlington resident, supports increasing tenant education as a neighbor to tenants and commented that it can be difficult to maintain positive neighborhood relations when minimum housing standard complaints are not anonymous and often lead to intrusive housing inspections.

Christie Delphia, Burlington Tenants Union, supports increasing tenants' education an awareness of their rights, as well as higher fines for landlords who refuse to repair properties according to minimum housing standards with the proceeds funding tenant assistance. Delphia agreed to work with Traverse on ways to expand the Housing Board of Review going forward.

4. Develop CDNR work plan

The committee ran out of time to have a complete work plan discussion and agreed that to move forward an outline would need to be created to guide committee meeting discussion topics based on deadlines and which people and organizations would need to be invited. Councilor Pine agreed to draft this outline for committee approval.

5. Next Steps

The committee agreed to meet virtually in three weeks on June 24th at 5:00pm.

Adjournment

Committee agreed to adjourn the meeting at 7:44PM

VOTING: unanimous; motion carries.



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Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Christine Curtis, CEDO

Other Attendees: Christie Delphia, Burlington Tenants Union; Tom Proctor; Erika Johnson, Vermont Legal Aid; Larry Miller; Devon Ayers, Vermont Legal Aid; Brenda Rozzio; Sandrine Kibuey, Champlain Valley Office of Economic Opportunity(CVOEO); Jess Hyman, CVOEO, Amy Cornell

Wednesday, July 15th 2020

5:30 PM –7:03PM

Virtual Zoom Meeting

Draft Minutes

Meeting Started 5:30PM

1. Review Agenda

MOTION by Councilor Pine, **SECOND** by Councilor Carpenter, to adopt the agenda as presented

VOTING: unanimous; motion carries.

2. Public Forum

Public forum opened and with no comments presented by the public, forum closed.

3. Just Cause Eviction Discussion continued

The committee continued their previous discussion on just cause eviction with a presentation by Vermont Legal Aid, Erika Johnson and Devon Ayers. Ayers and Johnson presented data and case examples which show that no cause evictions allow discrimination and force tenants into a housing market where further discrimination exists. Their evidence suggests no cause evictions are used by landlords to discriminate

most commonly against familial, disability, and income status, which undermines tenant's rights.

Vermont Legal Aid suggests an effective ordinance which specifically limits the reasons tenants can be evicted to just cause evictions such as material breach of lease and non-payment of rent.

The committee opened the discussion for public comment.

Christie Delphia of the Burlington Tenants Union commented support for removing no cause evictions as they give landlords too much power over tenants' lives and don't allow for the tenants to have any rights.

Tom Proctor presented a few cases of no cause evictions which happened in Burlington.

Brenda Rozzio, Burlington tenant, gave a personal testimony about being evicted for no cause by her landlord. Rozzio said they failed to renegotiate the rent payment after the lease ended after the landlord told Rozzio rent would not increase, which caused the rent to double once the lease lapsed. Due to no cause evictions, Rozzio had no legal recourse and was forced to move out and struggled to find new, affordable housing.

Larry Miller, local landlord, expressed that there was a lack of input from landlords and other views and suggested more groups be invited to the discussion.

Gene Bergman, attorney, gave a personal testimony about having represented many tenants in previous cases where no cause eviction was used by landlords to bypass investigation and evidence required. Bergman suggests that specific ordinance language is not recommended due to the amount of details that would be required. Councilor Carpenter asked Gene Bergman to record and submit their legal language recommendations and suggestions.

Sandrine Kibuey, CVOEO, expressed support for the memo and said they'd like both parties involved to be able to discuss this and come to a resolution to offer tenants protections.

Amy Cornell, Burlington tenant, gave a personal testimony about how an eviction has affected a family close to her for the worse and that forcing families into homelessness causes irreparable mental suffering.

4. Next Steps

The committee discussed the next meeting and agreed to meet on Monday July 27th, at 5:30 with no set end time in order to allow for maximum public inclusion and discussion. It was also agreed upon to invite Eileen Blackwood, city attorney, the Vermont Landlords Association, and any other groups interested in attending.

MOTION by Councilor Hightower, **SECOND** by Councilor Carpenter, to adjourn the meeting at 7:03PM

VOTING: unanimous; motion carries.



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Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Christine Curtis, CEDO; Eileen Blackwood, City Attorney

Other Attendees: Bruce Baker, planning commissioner, lawyer, and landlord; Caryn Long; Christie Delphia, Burlington Tenants Union; Tom Proctor; Angela Zaikowski, Director of the VT Landlords Association; Liam Mulroy; Erika Johnson, VT Legal Aid; Patrick Murphy, Burlington Police Department; Larry Miller; Devon Ayers, VT Legal Aid;

Monday, July 27th 2020

5:30 PM – 8:30 PM

Virtual Zoom Meeting

Draft Minutes

Meeting Started 5:30PM

1. Review Agenda

MOTION by Councilor Hightower, **SECOND** by Councilor Carpenter, to adopt the agenda as presented

VOTING: unanimous; motion carries.

2. Public Forum

Public forum opened with comment from Bruce Baker, local planning commissioner, lawyer and landlord; he expressed concerns about the vague and open-ended language being used, and the lack of support from landlords if their questions aren't answered, such as, what will typical exemptions for landlords look like, and who will be required to follow.

Committee members reminded the forum that the argument at hand is whether they go to the state to get authority for the city to make changes to no cause eviction, or create an ordinance first.

Caryn Long commented that she finds ordinances no longer work as they are not enforced and that Burlington Police Department can't come due to defunding.

Christie Delphia, Burlington Tenants Union, commented that the discussion should focus on tenants, not general ordinance issues, and that Burlington Police Department has told tenants they can't enforce ordinances due to COVID-19.

Tom Proctor expressed support for bring just cause evictions to the voters. Also to remove no cause evictions, rather than changing what is covered under just cause, and making a change to the state charter to give the city authority.

Angela Zaikowski, director of the Vermont Landlords Association, discussed the length of the eviction process in Vermont versus the length of eviction processes in states that have removed no cause eviction, being that those states on average have much shorter timelines than Vermont, and believes that a longer timeline provides more protection for tenants.

Liam Mulroy presented support for moving forward on removing no cause evictions.

Tom Proctor entered another comment stating that the Vermont eviction process takes longer because landlords can file for any reason, and states with shorter processes see more compliant tenants and balance of power between landlords and tenants. Tom asked what percentage of evictions in Vermont are contested or non-compliant.

Gene Bergman commented that a longer eviction process gives tenants more time to find housing which is very difficult due to the housing crisis. Gene added he believes housing is a human right and removing no cause evictions goes against this idea and evictions leave marks on tenant's records.

Christie Delphia, Burlington Tenants Union, commented that eviction data is not always accurate due to the power imbalance between tenants and landlords, in that tenants don't have the protections and representation that landlords do and therefore don't fight their evictions in court. Christie also mentioned she was unable to get tenants to join this meeting due to fear of retaliation from landlords.

Angela Zaikowski, Vermont Landlords Association, suggested that clinics which assist renters be expanded, avenues for information on resources for tenants be increased, and finding ways to mediate disputes between landlords and tenants so that they don't go to court, which then goes on their record. Angela also said that landlords use no cause evictions because they require little evidence or convincing of the court.

Erika Johnson, Vermont Legal Aid, commented there are not a lot of defenses or representation for tenants facing no cause evictions and that the

consequence of losing in court or having it go on their record is too high for tenants to consider defending their case.

Christie Delphia, Burlington Tenants Union, added a comment that no cause eviction cases are largely not fought in court due to the power imbalance between tenants and landlords. Christie said increasing tenant education does not negate that housing is a human right and no cause evictions threaten tenants with homelessness at any time.

Patrick Murphy, Burlington Police Department, commented support for the city having more control over landlord/tenant relationships, but suggests making a general change which allows for flexibility for the city, as well as not trading the removal of no cause evictions for shorter evictions processes to gain landlord support.

Larry Miller had a question for Angela, if no cause evictions are removed, will leases be enforced as they are written? Angela described a few examples of landlords who had issues with evicting tenants that were in strong violation of their leases and expressed a lack of court support. Councilors Carpenter and Hightower agreed that the examples described would fall under just cause, and is a separate issue than the one at hand.

Christie Delphia commented that no cause evictions only protect landlords as they require no proof.

Councilor Pine asked if a lease ending qualifies as a no cause or just cause eviction. Devon Ayers, Vermont Legal Aid, answered that a lease ending is considered a no cause eviction, but in a lot of cases there is no written rental contract.

With no more public comments presented, public forum ended.

3. Just Cause Eviction Discussion continued

The committee continued their previous discussion of what language to include in the charter change and whether to put it on the November or March ballots for the voters. The committee discussed the testimony presented by Gene Bergman which included suggested language for the charter change, and whether the language should be specific or vague in order to gain voter support.

The committee agreed to move forward with getting the change on the November ballot, which requires committee to present City council with the resolution on August 24th, in order to follow the timeline presented by Gene Bergman, which includes public hearing and notice time.

4. Next Steps

Councilors agreed to provide Eileen Blackwood, city attorney with current resolution language and ask for legal input on the questions the committee still has, such as removing clause A. Councilors agreed on next meeting, Wednesday August 5th, at 5:30pm, virtually.

MOTION by Councilor Pine, **SECOND** by Councilor Carpenter, to adjourn the meeting at 8:30PM

VOTING: unanimous; motion carries.



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Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Christine Curtis, CEDO; Eileen Blackwood, City Attorney

Other Attendees: Cece Irish; Christie Delphia, Burlington Tenants Union; Jess Hyman, CVOEO; Rosie Benn; Stephen Marshall

Wednesday, August 5th, 2020

5:30 PM – TBD

Virtual Zoom Meeting

Draft Minutes

Meeting Started at 5:35 PM

1. Review Agenda

MOTION by Councilor Hightower, SECOND by Councilor Carpenter, to adopt the agenda as presented

VOTING: unanimous; motion carries.

2. Public Forum

Public forum opened, no one spoke, public forum closed.

3. Just Cause Eviction

The Councilors and City Attorney, Eileen Blackwood continued the discussion of charter change language re: just cause eviction. The draft language that was discussed and shared at the meeting was as follows:

“Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended, be further amended by adopting and adding a new section 48(66) to read as follows: To provide by ordinance protections for residential tenants from eviction without “just cause”, where just cause may include, but is not limited to (a) a material breach of a written rental agreement, (b) violation of state statutes

regulating tenant obligations in residential rental agreements, (c) non-payment of rent while just cause may exclude (a) expiration of rental agreements (b) personal disagreements. The ordinance may also set a maximum rent increase with the purpose of preventing de facto evictions. The ordinance may require that landlords provide notice of just cause and other legal requirements as part of the rental agreement.”

MOTION by Councilor Hightower, SECOND by Councilor Pine, to ask the City Attorney to draft a resolution for the City Council given the language just provided and discussed to be referred to Charter Change.

VOTING: unanimous; motion carries.

4. Next Steps

Councilor Pine will provide Eileen Blackwood with resolution language for the upcoming City Council meeting.

MOTION by Councilor Pine, SECOND by Councilor Hightower, to adjourn the meeting at 7:08 PM

VOTING: unanimous; motion carries.

City of Burlington Language Access Policy

DRAFT

[draft updated 6/3/2020]

SECTION 1: POLICY DIRECTIVE

A. General Statement

1. The City of Burlington strives to be a vibrant, diverse, and livable community that fosters innovation, enriches the lives of all residents, and embraces intentional community engagement.
2. The City of Burlington (“the City”) recognizes that English Language Learners (ELL), people with hearing and visual impairments, and/or those with limited English proficiency encounter barriers to accessing City services and programs, understanding and exercising rights, and complying with civic responsibilities.
3. The purpose of this policy is to ensure that the City provides timely and meaningful access to City information, programs and services. The City of Burlington will inform members of the public that these language assistance services are available free of charge, subject to certain budget constraints.

B. Policy

1. It is the policy of the City of Burlington to provide language assistance as may be needed to ensure Meaningful Access to City services and programs, prioritizing translation and interpretation resources for emergency and essential services.
2. For other services, Departments will ensure that persons seeking information and services are able to communicate effectively with City staff and understand their rights, which services are available to them and how best to receive them; however, this goal must be balanced with other budget and programmatic priorities.
3. In support of this policy, the City is developing an implementation guide, to be finalized following first the ratification of this policy document and second the completion of a Citywide language access needs assessment. This document will help the City prioritize and optimize resource allocation choices.

C. Definitions:

Auxiliary aids and services: Includes (1) qualified interpreters on-site or through remote interpreting (VRI) services as defined in 28 C.F.R. § 36.104, note-takers, computer-aided transcription services, written materials, exchange of written notes, telephone handset amplifiers, assistive listening devices, telecommunications devices for people who are deaf (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing

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impairments; (2) qualified readers, taped texts, audio recordings, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments; (3) acquisition or modification of equipment or devices; and (4) other similar services and actions.

Language Assistance Services (LAS): Services made available by the City including but are not limited to; 1) oral language services, including interpretation in non-English languages provided in person or remotely by a qualified interpreter for an individual with limited English proficiency; and 2) written translation, performed by a qualified translator, or written content in paper or electronic form into languages other than the English. These service offerings may be constrained by cost.

Limited English Proficient (LEP): Individuals who do not speak English as their Primary Language and who have a limited ability to read, write, speak, or understand English. *See*, 68 FR 47311-02. This definition includes individuals with sensory impairments (SI), who are Deaf or hard of hearing and communicate using American Sign Language (ASL), have speech impairments, or who are blind or have visual impairments. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be require language assistance for other purposes (e.g., reading or writing).

Meaningful Access: Language assistance that results in accurate, timely, and effective communication at no cost to the individual with limited English proficiency. For individuals needing language assistance, “meaningful access” denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

Interpretation: The act of listening to a communication in one language (source language) and orally, or through auxiliary aids, converting it to another language (target language) while retaining the same meaning.

Primary Language: An individual’s primary language is the language in which an individual most effectively communicates.

Professional Interpreter: A person who is qualified and trained to perform interpretation services, and who is under contract or employed by the City of Burlington for the purpose of providing such services. The interpreter provides services based on knowledge and comprehension of spoken messages that are then re-expressed accurately and objectively in another language.

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Professional Translator: A person who is qualified and trained to perform translation services, and who is under contract or employed by the City of Burlington for the purpose of providing such services. The translator provides services based on knowledge and comprehension of written communications that are then re-expressed accurately and objectively in another language.

Translation: The replacement of written text from one language (source language) into an equivalent written text in another language (target language).

Vital documents: Paper or electronic written material that contains information that is critical for accessing a Department's program, services or activities, or is required by law. Whether or not a document is vital may depend on the importance of the program, information, or service involved, and the consequence to the individual with limited English proficiency if the information is not provided accurately or in a timely manner.

Video Remote Interpretation (VRI): an interpreting service that uses video conferencing technology over dedicated lines or wireless technology offering high-speed connection and delivering high-quality video imaging. Whether the use of an in-person interpreter, as opposed to VRI interpretation will depend on the nature, length and complexity of the communication involved and the context in which the communication is taking place.

SECTION 2: PROCEDURES AND STANDARDS

A. Interpretation and Translation Services

The type of language assistance necessary to provide meaningful access will vary depending on the type of communication staff is having with the individual in need of translation or interpretation services (e.g. phone, in person or written communication) and in some circumstances more than one method may work. For example, for essential services, a professional interpreter, or for vital documents, a professional translator, may be required, while in a more routine interaction, an individual familiar with the language may be able to provide effective and sufficient communication.

Regardless of how the language assistance is provided, the City recognizes the importance of providing such Professional Interpretation and Translation services in a timely manner and in an appropriate place, subject to priorities and budget constraints.

1. Language Identification Tools: In order to be able to provide language assistance, the City needs to identify who needs what type of assistance. All individuals (regardless of race or national origin) will be asked "what language do you speak" or

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“would you like an interpreter” if it appears that there is a language barrier to services. The use of language identification tools such as I Speak Cards will invite people with limited English proficiency to identify their preferred language to communicate in.

2. In-person Interpretation Services: The City will maintain contracts for interpretative services that will be accessible to all Departments to provide in-person or video remote interpretive (VRI) or other interpretive services.
3. Written Translation Services: The City will maintain a contract to provide high quality professional translation of vital documents, but also of brochures, application forms and other needed written materials.

B. Responsibilities:

The overall responsibility for providing Meaningful Access to services to individuals with limited English proficiency rests primarily with each City Department. To ensure a more consistent and comprehensive approach, the CEDO Director, in consultation with the Director of Racial Equity, Inclusion and Belonging (REIB Director), will oversee implementation of this policy and will designate a Language Access Service (LAS) Coordinator to be a resource for City staff to contact with questions and issues related to the implementation and execution of the LAP. The REIB Director should be consulted on questions rising to a policy level.

1. The Language Access Service Coordinator will oversee Citywide contracts related to interpretation and translation services.
2. The Coordinator will oversee the completion of a Citywide needs assessment and development of an implementation plan.
3. The Coordinator will also, in collaboration with the REIB Director, CEDO, HR and the City Attorney's Office, coordinate and disseminate LAP information.
4. Each City Department will identify one (1) or more person(s) to be the main resource for language access issues and the initial point of contact and reference for front-line staff. This LAS representative from each department will serve on a citywide language assistance committee, which will meet as needed.
5. The LAS Coordinator will continue to work with the community, including service providers, to maximize resources and expand language assistance across all City Departments.
6. The City will support efforts to provide electronic information in languages other than English to the extent practicable. When developing public-facing websites and applications, the City will consider the potential impact to Limited English Proficient populations and ensure that language-specific content is available as appropriate, relevant to essential services, and financially feasible.

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7. Each Department, in collaboration with the City Attorney's Office and to the extent appropriate, will determine whether contractors, grantees, and sub-grantees receiving City funds from that Department are providing services that are difficult to access for persons with Limited English Proficiency and if so will take steps to work with the contractor and future contracting documents that will help secure meaningful access to such services.
8. Each Department will develop practices for staff awareness or training outlining how the Department provides for language assistance and how to access those resources.
9. The City and all Departments will prominently display and maintain uniform signs in all lobbies or entrances to their offices, that tell members of the community (in languages frequently encountered) of their ability to seek and receive language assistance.
10. As part of the implementation plan, each Department will develop and implement a procedure that follows the Language Assistance Services (LAS) Guide (described in the following section) and protocol of the City for notifying individuals of their rights to complain about meaningful access to their services.
11. The Innovation & Technology Department will develop clear web accessibility standards and guidelines for City websites based on the Federal Access Board's Section 508 Guidelines as part of the LAS implementation effort.

C. Interpretation and Translation Needs Assessment:

Each department will have varying levels of interaction with residents and stakeholders who have limited English proficiency. The LAS Guide will detail the need for translation services and implementation procedures for providing services that adhere to the standards outlined in this policy. In the creation, implementation and monitoring of this policy, the City will maintain and update every three years the LAS Guide to be used by staff. As part of the LAS Guide, the City will strive to conduct a needs assessment every three years in order to:

1. Determine the frequency and nature of requests for language assistance services;
2. Solicit feedback directly from a diverse subset of individuals with limited English proficiency about their unmet needs within and outside of the City;
3. Assess the current nature of departmental responses in requests for language assistance services; and
4. Determine the proper allocation of materials and resources to these departments.

Translation and interpretation for emergency and essential services will be prioritized.

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D. Community Outreach and Notification of Language Assistance Services:

1. CEDO will identify the primary sources through which individuals with LEP are referred to City services, and culturally-based organizations that serve individuals with LEP in our community. In collaboration with the Diversity, Equity, & Inclusion Director, CEDO will work to develop collaborative relationships with these organizations to ensure more seamless access to services, accountability to our own language access policies, and greater access to individuals with LEP.
2. The City's goal is to have information on language access available in each City Department reception, front desk areas, and in areas accessible to the public.
3. Subject to cost constraints, staff will also be provided with language identification tools such as 'I-Speak Cards' that are laminated business-sized cards that say in both English and the principal languages for an interpreter.

E. Training Staff:

1. Consistent with public outreach, the City will follow an internal protocol as outlined in the LAS Guide to ensure all City staff are aware of language access services.
2. The City will distribute this LAP Policy and LAS Guide to all necessary staff and will have a current electronic copy available so staff will be aware of language assistance policies and procedures. All staff providing technical assistance, managing programs, providing training, or receiving in-bound calls will receive a formal language access training hosted jointly by CEDO, the REIB Director, and/or HR.
3. Relevant portions of the LAP Policy and LAS Guide and reference and materials will be incorporated into the City's Personnel Policies and made available to all staff via the city's intranet site.
4. In order to establish meaningful access to information and services for individuals with limited English proficiency, within one year of the adoption of this policy, the City will provide training in regard to this policy and the appropriate responses when working with a person who may require language assistance services, to management staff and all staff who have regular interaction with the public. Training will ensure that staff members are effectively able to work in person and/or by telephone to provide other information required to access City programs and services.
5. After their initial training, these staff members, and others deemed appropriate, will receive a refresher training in language access every three years.
6. LEP training will be included in new hire training for all staff hired following the implementation date of this plan.

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F. Monitoring Plan:

This policy should be reviewed on an annual and ongoing basis. The City will conduct an evaluation to collect data and make adjustments as part of determining the overall effectiveness of language access services and the LAP, reviewing the progress of stated goals, and identifying new goals or strategies for better serving individuals with limited English proficiency. The City will update the needs assessment every three years.



CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT &
NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

Councilor Brian Pine, Chair, Ward 3
Councilor Sarah Carpenter, Ward 4
Councilor Zoraya Hightower, Ward 1

Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Christine Curtis, CEDO; Eileen Blackwood, City Attorney

Other Attendees: Cece Irish; Christie Delphia, Burlington Tenants Union; Jess Hyman, CVOEO; Rosie Benn; Stephen Marshall

Wednesday, August 5th, 2020

5:30 PM – TBD

Virtual Zoom Meeting

Draft Minutes

Meeting Started at 5:35 PM

1. Review Agenda

MOTION by Councilor Hightower, SECOND by Councilor Carpenter, to adopt the agenda as presented

VOTING: unanimous; motion carries.

2. Public Forum

Public forum opened, no one spoke, public forum closed.

3. Just Cause Eviction

The Councilors and City Attorney, Eileen Blackwood continued the discussion of charter change language re: just cause eviction. The draft language that was discussed and shared at the meeting was as follows:

“Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended, be further amended by adopting and adding a new section 48(66) to read as follows: To provide by ordinance protections for residential tenants from eviction without “just cause”, where just cause may include, but is not limited to (a) a material breach of a written rental agreement, (b) violation of state statutes

regulating tenant obligations in residential rental agreements, (c) non-payment of rent while just cause may exclude (a) expiration of rental agreements (b) personal disagreements. The ordinance may also set a maximum rent increase with the purpose of preventing de facto evictions. The ordinance may require that landlords provide notice of just cause and other legal requirements as part of the rental agreement.”

MOTION by Councilor Hightower, SECOND by Councilor Pine, to ask the City Attorney to draft a resolution for the City Council given the language just provided and discussed to be referred to Charter Change.

VOTING: unanimous; motion carries.

4. Next Steps

Councilor Pine will provide Eileen Blackwood with resolution language for the upcoming City Council meeting.

MOTION by Councilor Pine, SECOND by Councilor Hightower, to adjourn the meeting at 7:08 PM

VOTING: unanimous; motion carries.

City Council Community Development & Neighborhood Revitalization Committee
Scope of Work for Just Cause Eviction research
September 16, 2020

1. Determine which states and municipalities have some form of eviction control measures in place.
2. Prepare a table that compares and contrasts JCE ordinances/laws
3. Identify the most common characteristics of JCE ordinances in jurisdictions without rent control or rent stabilization. Special attention should be paid to ordinance provisions that prohibit excessive rent increases in jurisdictions without rent control.
4. Identify best practices among jurisdictions with JCE ordinances/laws
5. Prepare a policy brief containing all of the information outlined above
6. California, NJ and OR have JCE and those laws ought to be closely examined as models
7. How do they handle the issue involving egregious rent increases?
8. Various options for the treatment of owner-occupied properties
9. Exemptions for certain instances (family members, undertaking substantial rehabilitation, etc.)
10. Lease renewal provisions – does JCE result in a perpetual lease?

Expected level of effort: 45 hours

Rate of pay: \$15/hour

Expected completion: no later than October 30, 2020

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Just Cause Eviction Research Info Sheet

1) Determine which states and municipalities have some form of eviction control measures in place.

States:

- California (2020)
 - Tenant Protection Act of 2019
 - CC § 1946.2 (California Civil Code, Division 3: Obligations, Part 4: Obligations Arising from Particular Transactions, Title 5: Hiring, Chapter 2: Hiring of Real Property)
 - CC § 1947.12 → rent control prohibiting raising the annual rent more than the average cost of living for that locality plus 5%, up to 10 % max increase from prior rent
- New Hampshire (1985)
 - RSA § 540:2 (NH Revised Statutes Annotated, Title LV: Proceedings in Special Cases, Chapter 540: Actions Against Tenants, Section 2: Termination of Tenancy)
- New Jersey (2008)
 - Anti-Eviction Act
 - NJSA § 2A: 18-53 through 2A: 18-84 (NJ Statutes Annotated, Title 2A: Administration of Civil and Criminal Justice)
 - NJSA § 2A: 18-61.1 - Grounds for Removal of Tenants
 - NJSA § 2A: 18-61.3 - Causes for Eviction or Non-Renewal of Lease
- Oregon (2019)
 - ORS § 90.427 (Oregon Revised Statutes, Chapter 90: Residential Landlord and Tenant, Subsection on Landlord Remedies, Section 427: Termination of Tenancy without Tenant Cause)
- Massachusetts for foreclosed rental properties
 - MGL, Chapter 186A (Tenant Protections in Foreclosed Properties)
- Rhode Island for foreclosed rental properties
 - RIGL § 34-18-38.2 (Title 34: Property, Chapter 18: Residential Landlord and Tenant Act, Section 38.2: Just cause needed for eviction of foreclosed residential property tenants)
- New York is considering
 - “Good Cause Eviction” bill introduced in state senate, 2020
- Washington is considering
 - Introduced both in 2019 and 2020 legislative sessions

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Municipalities with JCE:

* The CA and OR municipalities included on this list had JCE ordinances prior to CA's 2020 statewide enactments.

- Berkeley, CA
- Beverly Hills, CA
- East Palo Alto, CA
- Emeryville, CA
- Glendale, CA
- Hayward, CA
- Los Angeles, CA
- Maywood, CA
- Mountain View, CA
- Oakland, CA
- Richmond, CA
- San Diego, CA
- San Francisco, CA
- San Jose, CA
- Santa Monica, CA
- Union City, CA
- West Hollywood, CA
- Washington, DC
- New York City
- Philadelphia, PA
- Auburn, WA
- Burien, WA
- Federal Way, WA
- Seattle, WA

2.1) Compare and contrast at least 3 state-wide JCE laws:

For reference, in addition to no-cause evictions, these causes are explicitly permissible under VT law:

- At-Fault:
 - Non-payment of rent
 - Breach of rental agreement
 - Criminal activity
 - Illegal drug activity
 - Acts that threaten health/safety of other tenants
- No-Fault:
 - Sale of property
 - Conversion to condominium
 - Owner-occupied property with shared common space(s)

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	California	Oregon	New Hampshire	New Jersey
Year Effective	2020 *sunsets 2030	2019	1985	1974
Name	Tenant Protection Act of 2019 or AB 1482	SB (Senate Bill) 608		NJ Anti-Eviction Act
Law	CC § 1946.2	ORS § 90.427	RSA § 540:2	NJ § 2A:61.1 & NJ § 2A:61.3
Just Causes (Tenant At-Fault)	* VT at-fault causes *refusal to move out after tenant provides notice to owner of termination of agreement *refusal to permit lawful entry	* VT at-fault causes *non-payment of utility or service *violation of conditions particular to housing type, per state law	* VT at-fault causes	* VT at-fault causes *refusal to accept reasonable changes to terms of lease
Just Causes (Landlord-Based / No-Fault)	*removal of unit from housing market *significant repair/renovation *gov't or court notice to vacate for health/safety code *landlord or immediate family move-in	*removal of unit from residential use *significant repair/renovation (making unsafe to live in) *sale to person who will move in *landlord or immediate family move-in	*removal of unit from residential use (esp. due to safety concerns) *significant repair/renovation * "other good cause" which may include "any legitimate business or economic reason and need not be based on the action or inaction of the tenant"	*removal of unit from residential use *gov't or court notice to vacate for health/safety code *removal of unit from rental market *conversion to condominiums
	California	Oregon	New Hampshire	New Jersey
Relocation Assistance for No-Fault?	1 month's rent - can be supplied as payment or by waiving last month's rent	1 month's rent - only applies to owners with 5+ units	N/A	only if displaced due to government action
Applicable To	1+ year(s) of tenancy at a unit	1+ year(s) of tenancy at a unit	Tenants of "restricted property" → all real property rented for	All residential, except...

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			residential purposes, except...	
Exemptions	*rental units in an owner-occupied duplex *apartments < 15 years old *specialty / transient housing - hospitals, school dorms, gov't-sponsored affordable housing..	*rental units in an owner-occupied duplex	*rental units in an owner-occupied building containing 4 units or less *single-family houses when the owner doesn't own more than 3 of them	*rental units in an owner-occupied duplex *properties rented to transient or seasonal guests *units held in trust on behalf of immediate family members who are developmentally disabled and permanently occupying the unit
Rent Increase Caps	*can't increase rent > cost of living for the locality plus 5 % *max increase: 10% prior rent	*can't increase rent > 7 % plus average inflation for the past year	N/A	N/A
	California	Oregon	New Hampshire	New Jersey

2.2) Compare and contrast 3 communities with JCE that have some characteristics similar to Burlington.

*all quantities approximate, estimated by the US Census Bureau

Characteristic <i>Burlington, VT</i>	Burien, WA	Philadelphia, PA	West Hollywood, CA
Population <i>42,819 people</i>	51,500 people	1,584,064 people	36,475 people
Median Household Income, 2014-2018 <i>\$50,324</i>	\$62,315	\$43,744	\$69,249
Median Gross Rent, 2014-2018 <i>\$1,177 / month</i>	\$1,182 / month	\$1,007 / month	\$1,582 / month

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Characteristic (Burlington)	Burien	Philadelphia, PA	West Hollywood, CA
Persons in Poverty 24.7 %	13.6 %	24.9 %	13.0 %
> 5,000 College Students? Yes	No	Yes	No
Race and Ethnicity Demographics (using abbreviated versions of designations from the census) <i>Am. Indian: 0.3 %</i> <i>Asian: 6.3 %</i> <i>Black: 5.3 %</i> <i>Latino/Hispanic: 2.8%</i> <i>Multi: 2.7 %</i> <i>White: 82.9 %</i>	Am. Indian: 0.7 % Asian: 12.8 % Black: 8.0 % Latino/Hispanic: 24.6 % Multi: 7.2 % White: 48.3 %	Am. Indian: 0.4 % Asian: 7.2 % Black: 42.3 % Latino/Hispanic: 14.5 % Multi: 3.0 % White: 34.6 %	Am. Indian: 0.2 % Asian: 5.3 % Black: 3.6 % Latino/Hispanic: 10.7 % Multi: 5.3 % White: 75.8 %
JCE Ordinance	Just Cause Eviction Ordinance, Burien Municipal Code § 5.63.070	"Good Cause" Eviction Law - Fair Housing Ordinance, Philadelphia Code § 9-800	Rent Stabilization Ordinance, West Hollywood Municipal Code, § 17.52.010
Year Effective	2019	2018	1985
Just Causes (Tenant At-Fault)	*habitual non/late payment of rent *habitual violation of material terms of lease *illegal drug activity *criminal activity threatening health/safety of other tenants or owner *failure to comply with lawful notice to vacate *tenancy dependent on employment on the premises, which has since ended	*habitual non-/late payment of rent *violation of material terms of lease *substantial nuisance and/or unsafe activity *substantial damage to property *refuses lawful access *refuses to renew similar-terms lease *refuses to agree to changed lease, given certain conditions of change (per ordinance)	*non-payment of rent *violation of terms of tenancy *substantial nuisance, damage to property, and/or unsafe or illegal activity *refuses lawful access *refuses to renew similar-terms lease *subleasing w/o permission *tenancy dependent on employment on the premises, which has since ended
Just Causes (Landlord-Based / No-Fault)	*owner or immediate family move-in (only if no substantially equivalent	*owner or immediate family move-in	*owner or immediate family move-in (but

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	unit is vacant in same building) *substantial repair/renovations *sale of property *removal from residential use *demolition *order to vacate for health/safety *conversion to cooperative *in compliance with max. occupancy ordinances *owner wishes to cease sharing own housing unit with tenant	*temporary removal from market for significant repair/renovations (but tenant gets option to return when back on market)	must provide relocation assistance) *owner wishes to transfer into that unit (w/ medical documentation) *substantial repair/renovations to comply with health/safety code (but tenant gets right of first refusal after) *removal from rental market *demolition by certain orgs. to construct low- and moderate-income housing *in compliance with laws on inclusionary housing units *foreclosure
Characteristic	Burien, WA	Philadelphia, PA	West Hollywood, CA
Applicable To	All	Leases lasting < 1 year	All
Exemptions	N/A	N/A	N/A
Rent Caps	N/A, rent control is illegal In Washington	N/A	Max Allowable Rent (MAR) dependent on year began tenancy, as well as age and type of property.
Other	Burien's ordinance is modeled after Seattle's (1980)	Explicitly lists some of the things on the basis of which it would be unlawful for an owner to terminate/modify a lease	Relocation assistance required when evicted for: * owner/immediate family move-in * Renovations to meet code *foreclosure *withdrawal from rental market *demolition

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3.1 Identify the most common characteristics of JCE ordinances in jurisdictions without rent control or rent stabilization.

Those jurisdictions include:

- Burien, WA
- Emeryville, CA*
- Federal Way, WA
- Glendale, CA*
- Philadelphia, PA
- San Diego, CA*
- Seattle, WA
- Union City, CA*

*California now has a statewide “anti-gouging” law, enacted with JCE, but the language in these ordinances existed prior to that law.

All had variations of the following listed as just causes for eviction:

- Tenant’s non-payment of rent
- Tenant breach of rental agreement
- Tenant threat to others’ health/safety (often as some part of a “nuisance” clause in CA cities)
- Landlord / their immediate family moving in
- Property to receive significant repair/renovations

Other popular causes include:

- Property removed from rental market
- Property removed from housing market (most specifically for demolition)
- Tenant refusal to renew (nearly) identical lease
- Tenant’s activities regarding illegal/controlled substances
- Property conversion to condominium(s)

See excel sheet “JCE Causes by Jurisdiction.”

3.2 Special attention should be paid to ordinance provisions that prohibit excessive rent increases in jurisdictions without rent control.

Those prohibiting excessive increase:

- Berkeley, CA (7 % max)
- East Palo Alto, CA (10 % max)
- Hayward, CA (10 % max)
- San Francisco, CA (7 % max, can’t exceed a tenant’s base rent by > 60 % of published consumer price index increase)
 - Only applied to properties issued a certificate of occupancy before 1979
- Oregon (max. of inflation plus 7 %)

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- California (no more than the cost of living for the locality plus 5 %, maximum of 10 % increase over prior rent)
- New Jersey (unconscionable rent increases)
 - A court may consider the following to determine if a rent increase is unconscionable:
 - the amount of the proposed rent increase
 - the landlord's expenses and profitability
 - how the existing and proposed rent compare to rents charged at similar rental properties in the geographic area
 - the relative bargaining position of the parties
 - whether the rent increase would shock the conscience of a reasonable person, based on the judge's general knowledge

All had variations of the following listed as just causes for eviction:

- Tenant non-payment of rent
- Tenant breach of rental agreement
- Tenant threat to others' health/safety (often as some part of a "nuisance" clause in CA cities)
- Property removed from housing market (most specifically for demolition)

Other popular causes include:

- Tenant refusal to permit landlord's lawful entrance
- Landlord / their immediate family moving in
- Tenant refusal to renew (nearly) identical lease
- Tenant causes significant damage to property
- Property to receive significant repairs/renovation
- Tenant's illegal use of property
- Tenant's unpermitted subleasing
- Property removed from rental use

See excel sheet "JCE Causes by Jurisdiction."

3.3 Also, look at options that accommodate student-type rentals (roommates).

I did not notice any ordinances that differentiated roommates from other groups of renters when renting from private landlords, but below is some of the language I found regarding student housing. In California, JCE protections don't kick in until there's been one year of tenancy, but that clock restarts if a new roommate is brought in within the first two years of that group being largely the same.

Additionally, Erika Johnson (VT Legal Aid) noted that Burlington's Code of Ordinances defines "rental unit" to the exclusion of housing provided by educational institutions in terms of housing discrimination (Chapter 8, Article IV) and suggested piggybacking off that language.

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(This ordinance also exempts owner-occupied duplexes, which are forms of housing that some other jurisdictions exclude from their JCE laws.)

- Berkeley Municipal Code § 13.76.050:
 - “This chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following: ... (J.) A rental unit which is rented by a nonprofit, accredited institution of higher education to a tenant or tenants who are student(s), faculty, or staff of the institution or of a member school of the Graduate Theological Union, provided, however, that the institution owned the unit as of January 1, 1988.
- Burien Municipal Code § 5.63.020 (7):
 - “Landlord” means a landlord as defined in and within the scope of RCW [Revised Codes of Washington] 59.18.030 and 59.18.040 of the Residential Landlord Tenant Act of 1973”
 - 59.18.040 (1) → exempted from this chapter is “Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services, including but not limited to correctional facilities, licensed nursing homes, monasteries and convents, and hospitals”
- California Civil Code § 1946.2 (e)(3):
 - “This section shall not apply to the following types of residential real properties or residential circumstances:... Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.”
- Glendale Municipal Code § 9.30.020:
 - “The term ‘rental unit’ shall not include the following: rooms or accommodations in hotels (as defined in Section 4.32.020), boarding houses or lodging houses which are rented to transient guests for a period of less than thirty (30) consecutive days; housing accommodations in a hospital, convent, monastery, church, religious facility, extended care facility, asylum, nonprofit home for the aged; dormitories owned and operated by an institution of higher education, or a high school or elementary school...”
- West Hollywood Municipal Code § 17.24.010 (1)(a):
 - “The following shall be exempt from application of this title: Institutional Facilities. Housing accommodations in any hospital, convent, monastery, extended medical facility, asylum, nonprofit home for the aged, fraternity, or sorority house, or housing accommodations owned, operated, or managed by a bona fide educational institution for occupancy by its students.”

4. Identify best practices among jurisdictions with JCE ordinances/laws.

* I am writing this more as a “things to consider.”

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Informed by conversations with:

- Erika Johnson, VT Legal Aid
- Edmund Witter, managing attorney at King County (Washington) Bar Association's Housing Justice Project)
- Alison McIntosh, Director of the Oregon Housing Alliance
- Branden Butler, California Department of Fair Employment and Housing

Language Considerations

- Some jurisdictions write simpler JCE laws (CA, NH...) and others are much more detailed—especially in terms of procedure (Seattle...); Witter's not sure that it really matters which approach you take, but might want to consider how much procedure other housing ordinances and state law already lay out.
 - Butler (of CA), would argue that while CA law may not give as much procedure, it's still very easy to get lost in that law, and recommends writing it better so that anyone can understand it, not just lawyers
- Ought to include requirement for landlords to provide to tenants specific notice of what just cause they have to evict
 - Some jurisdictions require notice for only some of the causes and an opportunity to rectify, and those that do have varying lengths of notice
 - Another thing that may already be provided for in state law
- Pure lease expiration should not be a just cause → undermines the whole point
 - Seattle (1980 JCEO) includes this (Ed believes as an uncorrected drafting error) and then Burien (2019 JCEO) adopted it when copying and pasting Seattle's ordinance as its own
 - Otherwise, unwritten agreements better off, but then just incentivizes writing a short-term lease agreement then letting it expire to evict a tenant
 - If you don't include, some may argue that you're creating a contract in perpetuity, but that doesn't actually hold much water, constitutionally
- Will this be just a defense against eviction, or will it include proactive enforcement?
 - Most I've seen are purely defense
 - Costly to hire enforcement personnel, and that's more likely to sink an ordinance at the City Council level
 - When you don't have a body to enforce, it's left to lawyers and the courts, and Butler points out that it's almost no justice in that direction → it's a long process, and in CA, those courts are very landlord-friendly
 - McIntosh recommends being explicit about the statute of limitations, and preferably, giving tenants a year from when they could have reasonably known about a landlord's violation of JCE (as opposed to a year from being evicted)
 - Additionally, penalizing landlords financially if found to have violated JCE ordinance with, say, 3 months' worth of rent
- With at-fault causes, consider which violations the tenant might get an opportunity to cure and which permits immediate removal
- Mutual termination agreements

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- Often constitute a waiver of rights, JCE ordinance should provide some wiggle room to vacate such an ordinance for those who've landed in a really bad situation
- Limiting exemptions
 - Butler considers CA's law to be very watered down, in large part due to the number of exemptions. Some cities (like San Diego) close exemptions for single family homes, for example, by making JCEOs apply to them, but not until two years of tenancy has been reached (instead of one)
 - 2 year / 1 year tenancy may be longish, but still helps the long-term renters
 - Too many exemptions also makes it hard to be effective in communicating to the public what JCE does
 - With pure JCE (without rent control), Butler thinks it makes even more sense to limit exemptions
- Landlord/family move-in
 - These clauses tend to be the most wordy/detailed
 - More likely to require relocation assistance
 - A number of the ordinances I read won't allow for this if there is a vacant unit on the same property
 - Butler wonders if perhaps there should be a declaration required of the landlord, saying who exactly will be moving in as documentation in case of abuse
- Making the ordinance effective immediately avoids unsavory tactics landlords might employ in the time between passage and effective date

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Councilor Brian Pine, Chair, Ward 3
Councilor Sarah Carpenter, Ward 4
Councilor Zoraya Hightower, Ward 1

Committee members: Chair Brian Pine (BP), Sarah Carpenter (SC), Zoraya Hightower (ZH)

City staff: Christine Curtis, CEDO; Brian Lowe, I/T; Audrey Oliver, CDNR Research Asst.

Other Attendees: Christie Delphia, Burlington Tenants Union; Jess Hyman, CVOEO; Brian Armstrong, Julie Marks, Mayumi Cornell, Kai Mikkell Forlie, Tom Proctor, Erhard Mahnke, Ricky Martin, Ann (unknown last name)

Thursday, October 8th, 2020

5:30 PM – TBD

Virtual Zoom Meeting

Approved 11/10 - Minutes

Meeting Started at 5:30 PM

1. Review Agenda

MOTION by Councilor Carpenter, SECOND by Councilor Hightower, to adopt the agenda as amended by adding an item 4.5 FAQ document discussion
VOTING: unanimous; motion carries.

2. Public Forum

Public forum opened: Christie Delphia, Brian Armstrong, Julie Marks, Mayumi Cornell, Kai Mikkell Forlie, Tom Proctor, Erhard Mahnke, Ricky Martin, Ann (unknown last name) expressed their concerns as Burlington tenants and concerns as Burlington Landlords re: just cause eviction language, tenant rights and landlord rights.

Jessica Hyman advertised the new renter resource page available [here](#).

Philip Geraghty provided written statement as he could not attend public forum: "As a landlord I will not deny housing is a human right. The issue of contention I have with just cause eviction is clarity. The research presented in the past city council meetings has been about evictions as a whole and does not represent

clearly a picture of either no cause evictions being abused or just cause evictions being needed. As a whole landlords are not adversaries of our tenants but rather we prefer to be their advocates. Advocate for safety, advocate for their health, advocate for their right to live peacefully. Unfortunately there is a group of individuals that make this difficult. They exist as both landlords and tenants looking to "pull one over" on the other party. Those individuals should not be in this business as landlords. I welcome code enforcement inspections, heating inspections and alike. The negative to proposals like just cause are the same as the problems with restrictive zoning is it stifles change. I've linked in several articles that relate to just cause evictions and restrictive zoning and how it hurts everyone. If you are convinced just cause is a way to proceed the last link is a simple guide to the just cause ordinance in Oakland CA. This would be a version of just cause evictions that I feel most landlords would support."

Public Forum closed.

3. Language Access Plan

Brian Lowe presented on the City's Language Access Plan found [here](#).
MOTION by Councilor Carpenter, SECOND by Councilor Hightower, to recommend favorably towards the policy as been presented to City Council.
VOTING: unanimous; motion carries.

4. Just Cause Eviction (continued)

Audrey Oliver presented on her research so far regarding Just Cause Eviction in other states/municipalities (can be found on [CDNR webpage](#)).

4.5 FAQ document discussion

**Agenda item tabled until next meeting

5. Approve Draft Minutes: 5/6, 5/20, 6/3, 7/15, 7/27, 8/5

**Agenda item tabled until next meeting

6. Next Steps

The next meeting will be Wednesday, October 21st at 5:30 PM.

MOTION by Councilor Hightower SECOND by Councilor Carpenter to adjourn the meeting at 7:26 PM

VOTING: unanimous; motion carries.