



Burlington City Council Ordinance Committee Meeting

*****Remote*** - Tuesday, May 31st at 5:30 PM**

5/31/2022

City Council Ordinance Committee

Wednesday, May 31, 2022

Via Zoom

DRAFT MINUTES

Ordinance Committee Members Present: Councilor Traverse (Chair), Councilor Hanson, Councilor Hightower

Staff Present: Tim Devlin (Assistant City Attorney), Scott Gustin (Zoning Manager, Department of Permitting and Inspections), Patti Wehman (Housing Manager, Department of Permitting and Inspections)

Others in Attendance: Abbot Stark, William, Councilor Sarah Carpenter

Meeting called to order at 5:34 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Hightower, Seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Unanimous

1. Public Forum

i. Public Forum



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Abbot Stark: From Ward 3, Short Term Rental Host and Long term rentals for low-income families. Was able to rezone single family property into a two family property for Short Term Rentals. Short Term Rentals will assist in housing shortage.

1. Minutes

i. Approval of Minutes of 4/27/22

Motion to approve minutes by Councilor Hightower, seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Unanimous

1. Committee Discussion/Possible Action

4.01 Ordinance - Short Term Rentals BCO Ch. 18 & CDO ZA 22-08

Councilor Traverse: Thanked staff and councilors for work over past two years. Trying to find middle ground between two ends. Councilor Traverses amendments build upon Councilor Carpenter's suggested edits.

Councilor Hanson: Benefits of Short Term Rentals can indeed coincide with regulations.

Councilor Traverse: Believes that renting our units not in dwelling has merit.

Attorney Sturtevant: Format should be changed from resolution to Ordinance Form. Can be directed by committee to do so.

Councilor Traverse: Any comment on "Whereas" clauses?

Councilor Hightower: Prefer to jump into substance.

Councilor Hanson: Agreed.

Councilor Traverse: Sec 1 adds definitions for Guest. Definition of Host largely remains same as Councilor Carpenter, and clarifies Host to remit taxes. Definition of Rooming House remains same from Councilor Carpenter's definition, clarifying



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that Short Term Rentals are their own items.

Councilor Hightower: Question about definitions; do not see difference between Hotel and Short Term Rental.

Councilor Traverse: Possible to only deal with Short Term Rental only in Chap 18? Seems like do need to amend the Zoning Table. Inn and Hotels are lodging, but

Director Tuttle: By excluding Short Term Rental from Hotel and Inn to signal not commercial buildings. Acknowledges that definitions are similar.

Councilor Hightower: "Four Unrelated" provision is not being removed, but no longer have to monitor this?

Councilor Traverse: On application, if only using for a Short Term Rental then do not have to fill this part in.

Manager Gustin: Agreed. Not disregarding his, but only removing it from Short Term Rentals.

Councilor Traverse: Intent in 18-15(a) is that all Short Term Rental have to register. Some smaller units with only one or two rooms are not subject to inspection, but should still have to registers.

Councilor Traverse: Added "or tenant" to any use of Owner as Host because both Hosts and tenants can rent out rooms as Short Term Rental.

Councilor Hightower: Section identifying is confusing to readers, e.g. 18-15(a) subsections.

Councilor Traverse: Can removed following language for clarity: "Additional requirements pertaining only to short term rentals are listed in subsection (f)." [See draft amendment.]

Councilor Hightower: Advocate that breakout sections for different categories.

Councilor Traverse: Regarding Registration Application:

Any substantive questions regarding now-sections 1, 2, and 3 questions?

No questions.

Councilor Hightower: Can there be other criteria instead of what is put in 32 V.S.A. § 5410? Maybe a copy of lease?

Councilor Traverse: Could be driver's license, voter registration.

Councilor Hightower: Prefer voter registration rather than lease, because could have more leases.

Councilor Traverse: Concern about "gaming" system with only showing a lease, because a lease-holder could be a front for landlords trying to get more Short Term Rental units.

Councilor Hanson: People may not be registered to vote for various reasons.

All agree to remove certain language. [See draft amendment.]





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Councilor Traverse: Subsection (f) describes which units can be registered as a Short Term Rental. No more than 3 units. May register in primary lot and in other than primary lot for seasonable or building with two or more units. Permits housing swap.

Councilor Traverse: questions on (f)(1)? ("(f)(1) A Host may register their primary residence as one (1) whole unit short term rental or the Host may register up to three (3) rooms within their primary residence as a partial unit short term rentals.")

No questions.

Councilor Traverse: Discussion regarding (f)(2) ("(f)(2) A Host may register a dwelling unit within the same building or lot as their primary residence as one (1) whole unit short term rental.") Usually for supplemental income by Hosts. Thoughts on cap?

Councilor Hightower: Cap makes sense. Want to avoid an owner buying up multiple units for the purpose of Short Term Rental in larger "investment buildings."

Councilor Hanson: Agree with Councilor Hightower. Still believe that these properties should not be allowed to have Short Term Rentals. Does not support this.

Councilor Traverse: If were to reintroduce a cap, what should the cap be? 5? Higher?

Councilor Hightower: 5 was the standard for reasons of financing.

Director Tuttle: Zoning Ordinance defines this of 3 or more units. Gets to what is an "investment property."

Councilor Traverse: To legal counsel, any reasons for not permitting Gross Receipts language?

Attorney Sturtevant: not problematic at this time?

Councilor Hightower: what changed? Why 5%?

Attorney Sturtevant: reexamining provision in charter regarding being able to charge Innkeepers. Different perspectives of different City Attorneys.

Director Tuttle: underlying purpose of taxation. Caution about new taxes; want these to be fair, and targeted to deal with impact of regulated activity. Policy discussion over tax as deterrent instead.

Councilor Hightower: 5% tax funding Housing Trust only mitigates problems, but not solve problems.

Councilor Traverse: Want to reinsert cap of 5 units.

Councilor Traverse: Should be mindful about including a sunset provision for buildings with more than five units.

Committee added following language to (f)(2) "In buildings or lots with less than five (5) dwelling units." [See draft amendment.]

Councilor Traverse: If after a year of collect data, policy assumptions are incorrect in a year, can come back and change restrictions.

Councilor Hightower: Concern about having Accessory Dwelling Unit be converted into Short Term Rentals defeats purpose of Accessory Dwelling Units in increasing housing stock. Okay moving forward with cap, nevertheless.



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Councilor Hanson: Remains opposed.

Councilor Traverse: Do want to promote creation of Accessory Dwelling Units. One reason one some people doing so is to subsidize income. Maybe a compromise would be to must maximum years you can treat an Accessory Dwelling Unit as a Short Term Rentals. Does agree that will lose some Accessory Dwelling Units to Short Term Rental.

Councilor Hightower: Would have a different stance if did not have a reappraisal. Difference between buying and building an Accessory Dwelling Unit on property. Would feel differently about this if residents were not worried about 'aging in place' and using needing more income. Makes more sense to start with more restrictions than less.

Councilor Traverse: Discussion regarding (f)(3) ((f)(3) "A Host may register a dwelling unit that is not within the same building or lot as their primary residence . . .")

No comments on seasonal homes.

Councilor Traverse: Comments on affordability criteria in (f)(3)(iii)?

Councilor Hightower: Inclusionary Zoning Prices are the preferred way to go over Section 8 is an imperfect system.

Councilor Traverse: Should housing swap be limited to same building or lot?

Councilor Hightower: No. Should have equal housing standards.

Councilor Hanson: Do not support this over all. Section 8 language is an acceptable compromise, but does not support.

Councilor Traverse: Discussion regarding (f)(4) ("(f)(4) A Host may not register more than one (1) whole unit short term rental, unless the short term rental is the Host's primary residence, in which case the Host may register one (1) additional whole unit short term rental.") Called the 'housing swap.' Benefit of inclusionary zoning?

Councilor Hightower: Why regulating Hosts is difficult is over concerns of people creating numerous companies. Solution is to limit Hosts to one registration.

Councilor Traverse: Could register own permanent residence, can then register an additional unit in building OR enter into housing swap. Wants to set aside the permanent residence language, and get one additional Short Term Rental.

Director Tuttle: Past version have always had carve out for permanent residence, that that permanent residence would not count.

Councilor Hanson: Getting further from compromise. This is whole unit, not just a bedroom in home. Allows already privileged group to make money at expense of others.

Councilor Traverse: That was not his intent. Want it not to be property based.

Director Tuttle: previous chair had concern that it is easy for owners to mask ownership. And so opted for system that capped based on property not Hosts.

Councilor Hanson: Are there better ways to enforce?

Councilor Hightower: Insert to have a Host on site.



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Councilor Traverse: May not register one whole unit. If, maintain right to rent out another partial unit.

Director Tuttle: should clarify partial or whole unit.

All Agreed to strike some language and to add clarifying language.

Councilor Traverse: Discussion regarding § 18-16. (Inspection required.)

Councilor Hanson: 30 days. Are inspection for only long-term rentals.

Councilor Traverse: 30 day requirement only applies to hotels and motels. This excludes from inspection those with one or two rooms and partial rentals.

Manager Gustin: Agreed.

Councilor Traverse: Discussion regarding § 18-29a (Termination of rental housing tenancy; rental housing rent increase). Just Cause charter change was vetoed by Governor. This is trying to provide assistance to tenant if unit is conversion. Trying to find middle ground.

Councilor Traverse: Discussion regarding § 18-30 (Fees.) This number is and should be tied to actual administrative costs and efforts.

No other comments.

Councilor Traverse: Discussion regarding Article III. Minimum Standards, Division 1. Generally, 18-113 Short Term Rentals. About minimum safety standards. Many pieces seemed duplicative, so removed redundant language. Reference to state standards and statutes solves problems. New language pertains to materials Hosts have to give guests.

Removed previous proposed language regarding excluding Short Term Rental from discrimination standards. Other references in Code refer to discrimination based on gender (Fraternities/sororities), age (elderly homes).

Councilor Traverse: Discussion regarding Article VII. Reserved, 18-500 – 18-512 Reserved, Section 2: Removed outdated tax info. Added a new Section (C) for "Short Term Rental Tax".

Director Tuttle: Currently only have a remittance agreement with AirBnB; Hosts using other platforms have to remit taxes on own.

Councilor Hightower: Advocates for more money (whether tax or fees) going to Housing Trust Fund.



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Councilor Traverse: Would like it to be higher than 5%. Maybe 14-15% would be on par with other municipalities doing the same. Prefer the Gross Receipt's Tax over Replacement Costs because converting back and forth incurs high administrative burden.

Councilor Hanson: If this is the direction the council goes, supports higher rate of taxation.

Councilor Hightower: Prefers up to 10% tax.

Councilor Traverse: If 10%, then total tax would be up to 19%. Does not support a rate that high.

Director Tuttle: Policy considerations of fees: tighter the policy the fee will not go as far because fewer Short Term Rentals; with more permissible, then higher impact on housing stock which is lowered. Staff has explored various iterations and modeling. Scenario 1: When assuming the goal is to double the Housing Trust Fund, requires additional 4% Gross Receipt, which with existing 2% and 9% state puts rate at 15%. Scenario 2: When increasing rate, overall Short Term Rental participation rate falls, and less funds. Scenario 2: When restricting Short Term Rentals, overall Short Term Rental participation rate falls.

Councilor Hightower: But with fewer Short Term Rentals, the Housing Trusting Funds is not as stressed. Prefers compromise on supply-side of Short Term Rentals in addition to higher 10% local tax.

Councilor Traverse: Is 9% acceptable?

Councilor Hightower: 9% is acceptable.

Committee agrees to change rate from 5% to 9%.

Councilor Traverse: Should there be a sunset clause for to-be non-compliant units?

Director Tuttle: Setting time limits on how long these non-compliant units introduces complication for enforcement and for administrative perspective, to determine eligibility.

Councilor Hightower: Can insert language "Until 2025 Hosts can Short Term Rental within building"? [See draft language.]

Director Tuttle: Could target certain types of units, such as Accessory Dwelling Units. Although, a cap would benefit those who already have Accessory Dwelling Units. There is a policy tradeoff: Accessory Dwelling Units are supposed to be a type of unit that is particularly flexible; to go back and forth between Accessory Dwelling Unit and Short Term Rental.

Councilor Hightower: What about placing a sunset on other types of buildings?

Director Tuttle: From policy perspective, duplexes, triplexes and quad-dwellings are different in kind from Accessory Dwelling Units. Sun setting was made in particular to Accessory Dwelling Units, and not other types of buildings.

Councilor Traverse: Want a sunset clauses because of concerns over current reservations and service industry dependent on Short Term Rentals, such as cleaning. Proposed date of March 2023. Attorney Sturtevant has indicated that current language is legally problematic, and needs to be recrafted.

Councilor Hightower: Sunset should be one year. Propose removing bullet #2 ("The Host demonstrates to the satisfaction of the enforcement agency that future guest reservations were made for the short term rental prior to May 31, 2022.")

Councilor Traverse: Any non-compliant units should be limited to current Short Term Rentals. Only these Hosts could make new reservations until date of sunset. Also need to consider zoning amendment process.



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Director Tuttle: Zoning amendment process usually takes 4-6 months.

Councilor Traverse: Proposed August 31st.

Councilor Hanson: Supports December 31st deadline. Does not support this. Should also differentiate between illegal/non-compliant operators and current compliant operators.

Manager Gustin: Only those "in compliance" currently are those that have a zooming permit, and these will have

Councilor Hightower: Agreed. Cognizant that most leases in the City are May 31st. Advocate for this May 31st 2023.

Councilor Traverse: Add comment for City Attorney's office: "To craft language re sunset to permit Hosts to continue to be able to book through May 31, 2023, if they can demonstrate had bookings up to ordinance change effective date."

Councilor Traverse: To conclude, bring to vote on acceptability of language?

Director Tuttle: Regarding Use Table in Zoning Code, advocate preserving B&B standards makes sense to keep because has not been an item of contention. If Committee would like, could streamline this and focus on definitions rather than condensing uses.

Councilor Traverse: Purpose of altering Use Table in Zoning was to remove parking requirements (which he supports) and to send applications to Development Review Board.

Motion to adopt to forward to full City Council for its June 6th Meeting the Chapter 18 change as amended today by Committee and authorizing changes to be made by City Attorney's Office as directed today, and subject to additional comments from staff regarding Zoning Ordinances and Use Table

Motion by Councilor Traverse, seconded by Councilor Hightower.

Final Resolution: Motion Passes

Yes: Unanimous

1. Any Other Business

None.





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1. Adjournment

Motion to adjourn by Councilor Traverse, seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Unanimous.

The meeting was adjourned at 7:55 pm.