



Burlington City Council Ordinance Committee Meeting

*****Remote*** - Wednesday, April 27th at 4:00 PM**

4/27/2022

City Council Ordinance Committee

Wednesday, April 27, 2022

Via Zoom

DRAFT MINUTES

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

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

Others in Attendance: Sharon Bushor, Ricane Crossman, Councilor Joan Shannon, Julie Marks, Amy, Deb Ward, Lyons, Councilor Sarah Carpenter

Meeting called to order at 4:02 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Hanson, Seconded by Councilor Traverse.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Traverse

1. Public Forum

i. Public Forum



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Sharon Bushor: Happy with previous version returning, especially with owner-occupied language. Will maintain flexibility, and well-maintained buildings. Hopes Councilor Carpenter's (this version). Second Comment: 4:00PM time of meeting could be exclusionary for those who have to work or have other conflicts. Ord Committee vets many comments on behalf of City Council.

[Councilor Hightower joins meeting]

Ricane Crossman: Met with Mayor this morning. Is a 70 year-old retiree and previous business owner. Owns and lives in duplex; currently renting out half for traveling nurses and Beta people. On fixed income. Depends on rental income to make property tax (~\$1,000/month). Was making about double as Airbnb than rental. Apartments are inspected and furnished. Concern over regulations, especially with older people such as himself.

Julie Marks, VTSTRA: Owns building in Burlington has been in family for more than 30 years. History of building: gone from single family home, to office, to rental units, to single family, to B&B, to home, to rental years. Many different uses. That flexibility allowed family security and various uses. Built an apartment above garage for Short Term Rental; took out mortgage. Hope that Ordinance will give flexibility to homeowners. Will help families' well-being. Homeowners should be able to have Short Term Rental on property they live on. Ask for committee for 12-month grace period, to respect existing contracts. Requests Committee to explore definition of "B&B, lodging establishments" as put forth by State, and how these overlap with City's definitions. Definitions seem to not line up. What is the relationship these?

Councilor Joan Shannon (non-member of committee): Spoke with Councilor Gene Bergman. They hoped to find most support among all of City Councilors.

- Councilor Shannon and Councilor Bergman agree on:
 - Want to restrict conversion of rental units to Short Term Rental, more so than in the current process. Do not want process that is easier; want it to be harder. Support renting rooms in own unit. Units not in primary residents, should be slowed down in converting; rooms within home are fine to convert and need only be registered with assurances made that taxes will be paid, but do not need to be inspected. Also the same for a primary residence to be rented in whole.
 - Owner-occupied: 3 units or less; 1 unit must be Section 8 (easier to define than zoning standard); unit to be on same lot as primary residence.
 - There should be a parking requirement for a Short Term Rental in a separate unit. The parking requirements were eased for Accessory Dwelling Units (ADUs). This parking requirement for Short Term Rentals is important and reasonable.
 - Short Term Rental definition needs to allow flexibility between 30 days and more; current proposed definition only applies to less than 30 days; need flexibility between short and long-term rental.
 - New Ordinance should be located in the zoning section of the Burlington Code of Ordinances. Should be a conditional use in residential zone. Current configuration is in Chapter 18.
 - Should be a two-tier system; permitting via zoning, then also Chapter 18 for registration, inspection, etc.
 - Conversion of units should require payment to Housing Replacement Fees, but could be refunded if unit



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comes back onto market.

- Just Councilor Shannon's opinion: this will lead to conversion of long-term to short-term rentals. Will disadvantage workers who want to rent or own, because increase entry to market.
- Councilor Traverse asked Councilor Shannon to send notes to committee.

Amy: Did email comments to Councilors. Have 3-unit building with long-term and short-term rentals. Short Term Rental has allowed owner to maintain the years. Concerns about assumptions about type of people who do not live in multi-unit buildings. Does not live in owned building. Section 8 is good idea, but there need to be other ways to house the poor. Current elderly and poor tenant does not have Section 8; is not enough. Parking: visitors only arrive in one car; Short Term Rental do not need more parking than long-term rentals. Concern over enforcement: want clear communication of what process and when/time-line to expect DPI involvement. Personal experience: complaint about Short Term Rental; City-employee was overreaching.

Deb Ward Lyons: Short Term Rental and Long-term rental host. Has a B&B permit, 3-bed apartments. City's job is to analyze up-to-date data on Short Term Rental market, ask questions, vet objectives, and make informed proposal, e.g. consequences, benefits, harms, effect on tenants and landlords, whether impact worth costs, effect on housing. Need to find balance between tenants and hosts. Housing problems attributed to Short Term Rental is "smoke and mirrors"; has been a problem for a long time. In their opinion, factors include: UVM students may have led to demand; construction of studio and single-bedroom units over multi-bedroom units; speculative buying over pandemic. There are both good and bad hosts and tenants. Large property owners are not entertaining Short Term Rental; mostly small-building owners. Short Term Rentals can make more money from Long-term renting, but not necessary; regardless is an income source. Short Term Rentals being stopped will not solve housing crisis. City needs more housing to be built; UVM needs to have undergrads to live on campus; and ordinances need to accommodate more than just Section 8 in Short Term Rental. Since expanding to both Short Term Rental and long-term rental, have supported different types of people. Short Term Rental and Long-term rentals can co-exist.

Councilor Sarah Carpenter (non-member of committee): Proposal was not Councilor Carpenter's, but rather came out of previous Ord Committee last fall, which was not moved forward because of Shannon and that was vetoed by Mayor. Do feel urgency to move forward. It does not have to be in Chapter 18.

1. Minutes

i. Approval of Minutes of 3/10/22

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

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Traverse, Councilor Hightower



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1. Committee Discussion/Possible Action

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

Councilor Traverse: initial comments from DPI?

Scott Gustin: Carpenter version of Ord is very similar to what came out of Ordinance Committee last fall. Some different definitions and affordability language. Two pieces: Chapter 18 and zoning. Most standards in Chapter 18. Can move more into zoning; not all Short Term Rental scenarios need to be treated the same.

Director Bill Ward: Have been working on "Frequently Asked Questions" for Short Term Rental, but first need details on process.

Patti Wehman: No comments.

Councilor Traverse: New to committee. Opinion: Mindful of Scott Gustin's point that version now is similar to Committees. Aware of amended version was vetoed. Status quo does not adequately address Air B&B and VBRO as B&B, as currently are.

Councilor Hightower:

- Question: When first discussed, there was a question about registration fees. Required charter change? à Scott Gustin: No clear answer yet. Alternative to Housing Replacement Fee: 1) increased rental registration fee, 2) new tax, whether increased Rooms and Meals or Gross Receipts. May require charter change. Tax is preferred option. "Plan B" is a registration fee.
- Councilor Hightower: Why is the registration fee not preferable to a tax which would require a lengthy charter change process? à Scott Gustin: a registration fee needs to be tied to administrative costs. Could perhaps consider an additional Housing Trust Fund fee.
- Councilor Hightower: What amounts would be allowable? à Scott Gustin: unclear.
- Councilor Hightower: Any way to annualize Housing Replacement fee, or is there only the registration rental fee? à Scott Gustin: could use a registration rental fee as a model for another type of fee and incorporate it into an annual registration fee.

Councilor Traverse:

- Current Rental Registration Fee is \$110/unit if not owner-occupied bld. \$80 fee is owner-occupied bld. Inflation



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concerns? à Bill Ward: Department expenses have increased but not enough yet to justify increase in fee; concern of costs of fee being passed on to tenant.

- If this Ordinance passes 'as is,' will this cover the costs of administration? à Bill Ward: Seems likely correct, but have not done this before. Would contract with outside entity to track data and to be basis for compliance. Outside contract will be a new phenomenon, but the fee rate seems correct. Will see how accurate fees are after completion of year one.

Councilor Hanson: Want to see what Councilor Bergman and Councilor Shannon concerns put into writing, although seem in line with their concerns.

Councilor Traverse:

- Regarding inspection, is there difference between renting room inside unit vs. whole unit? à Bill Ward: Could utilize a self-certification form. State has a similar form. Could be a quick regulatory fix.
- Need to distinguish 30-day limits and Short Term Rental. Why is a Short Term Rental not simply a "rental unit"? What is the history? à Bill Ward: Chapter 18 specifies 30 days as cut-off for rentals needing registration and inspection. If shorter than 30 days, it becomes a zoning matter. Because Short Term Rental can be either, want a better system. à Patti Wehman: Enforcement between Chapter 18 housing and zoning is different; and so different Short Term Rentals can lead to different results. Both definitions of B&B and rentals do not fit well.

Councilor Hightower:

- Issue of Ordinance placement in either Chapter 18 versus zoning. Want as simple as possible ordinance. What are the benefits of putting in Chapter 18? à Scott Gustin: Various ways to deal with Ordinance. Could split between is this rental in your primary dwelling unit or not. Short Term Rental in primary dwelling unit fits in Chapter 18. But if not primary dwelling unit, maybe should go into zoning, and maybe should have permits.
- Data has been weird because of so few Short Term Rental. Putting part we're less sure about it could go into zoning. à Scott Gustin: There is a tradeoff: if in zoning, loose flexibility, but more public comment.

Councilor Traverse:

- If current Ordinance passes, what would happen to a traditional B&B? Would these be considered lodging or Short Term Rental? à Scott Gustin: Existing B&Bs would continue being B&Bs; new B&Bs would be Short Term Rentals.
- Parking? à Scott Gustin: Would need to maintain existing parking requirements.
- Concerns of runarounds: Hypothetical: if in a typical duplex where there is no connection between units, would someone be able to build a door between the units and call it 'one unit.' à Scott Gustin: People play games in grey areas. Such a door, would not work; would have to remove kitchen and connect spaces.
- More clearly define a "seasonal home?" à Scott Gustin: A "seasonal home" is a defined term by Assessor's Office. Is not occupied year round; almost all such properties in Burlington are on Sunset Cliff or Starr Farm Road; basically summer camps.
- "Primary Residence" means living there more than half year. Possible to be living more than half year and do not file Homestead Declaration and escape definition. à Scott Gustin: The Department of Permitting & Inspections always



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requires Homestead Declaration. à Bill Ward: When Homestead Declaration was in question, looks are voting and vehicle registration locations; the Department can verify such things.

[Councilor Hightower leaves meeting]

Written Question from Abbott Stark (read aloud by Councilor Traverse): "The mayor mentioned something similar was done when Uber/Lyft came to town... There was a memo of understanding issued so the tax could be charged in the interm of the charter change being passed." à Bill Ward: not aware of impact on Charter Changer here, but can explore. à Scott Gustin: can also look into.

Councilor Hanson: If Staff can review what other Counselors have proposed, Councilor Hanson would like to be able to use make amendments.

Councilor Traverse: Could staff be ready to discuss further work within 2 weeks? à Bill ward: yes.

Other comments from Chat:

- Within Coaching 05:00 PM: Scott - I also believe that the idea of "nightly fee" was also discussed! Different than taxes, it was designed to be paid for each night someone was renting the unit. Not sure if that requires a Charter Change.
- Abbott Stark 05:01 PM: The mayor mentioned something similar was done when Uber/Lyft came to town... There was a memo of understanding issued so the tax could be charged in the interm of the charter change being passed.
- Abbott Stark 05:02 PM: Airbnb (and probably VRBO, though we believe 70% of the stays are booked through Airbnb) could easily begin withholding the percentage and remitting to the city with the rooms and meals local option tax.
- Joan Shannon 05:23 PM: "Seasonal home" isn't just "not occupied year round". They are not able to be occupied year round. Seasonal structures are different construction.

1. **Any Other Business**

Councilor Hanson: possible to obtain list of any outstanding items ("accountability list") referred to the Ordinance Committee? à Councilor Traverse: Yes, Councilor Traverse will follow up with City Attorney's Office to obtain such a list.



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1. Adjournment

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

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Traverse

The meeting was adjourned at 5:30 pm