



**CITY OF BURLINGTON  
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A  
Post Office Box 849  
Burlington, VT 05402-0849  
802.863.9094 VOX  
802.863.0466 FAX  
802.863.0450 TTY  
[www.dpw.ci.burlington.vt.us](http://www.dpw.ci.burlington.vt.us)

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**Steven Goodkind, P.E.**  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

## MEMORANDUM

TO: PUBLIC WORKS COMMISSION  
FM: STEVEN GOODKIND, DIRECTOR  
DATE: JANUARY 10, 2011  
RE: PUBLIC WORKS COMMISSION MEETING

Enclosed is the following information for the meeting on January 18, 2012 at 6:15 PM at 645 Pine St, Main Conference Room.

1. Agenda
2. 59-61 North Prospect Appeal of Code Enforcement Order – Egress Requirements
3. 19-21 North Street Vacant Building Appeal
4. Proposed Handicap Parking Space at 61 Greene St
5. Request to Remove Handicap Parking Space at 125 College St
6. Proposal to Install 4 Way Stop Control at Lyman Ave, Foster St & Ferguson Ave
7. Street Reconstruction Program 2012
8. Sidewalk Strategic Plan
9. Minutes of 12/21/11

An Equal Opportunity Employer

*This material is available in alternative formats for persons with disabilities. To request an accommodation, please call 802.863.9094 (voice) or 802.863.0450 (TTY).*



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**Steven Goodkind, P.E.**  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

## **M E M O R A N D U M**

To: Martha Gile, Clerks Office  
From: Steve Goodkind, Director  
Date: January 10, 2012  
Re: Public Works Commission Agenda - **Amended**

Please find information below regarding the next Commission Meeting.

Date: **January 18, 2012**  
Time: 6:15 – 9:00 p.m.  
Place: 645 Pine Street – Main Conference Room

## **A G E N D A**

### ITEM

- 1 Agenda
- 2 Public Forum – 5 Minutes
- 3 30 Min 59-61 North Prospect Appeal of Code Enforcement Order – Egress Requirements
  - 3.10 Communication, W. Ward & Appellant
  - 3.20 Discussion
  - 3.30 Decision
- 4 30 Min 19-21 North Street Vacant Building Appeal
  - 4.10 Communication, W. Ward & Appellant
  - 4.20 Discussion
  - 4.30 Decision

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- 5    10 Min    Proposed Handicap Parking Space at 61 Greene Street
  - 5.10    Communication, J. Fleming
  - 5.20    Discussion
  - 5.30    Decision
  
- 6    10 Min    Request to Remove Handicap Parking Space at 125 College St
  - 6.10    Communication, J. Fleming
  - 6.20    Discussion
  - 6.30    Decision
  
- 7    20 Min    Proposal to Install 4 Way Stop Control at Lyman Ave, Foster St & Ferguson Ave
  - 7.10    Communication, J. Fleming
  - 7.20    Discussion
  - 7.30    Decision
  
- 8    15 Min    Street Reconstruction Program 2012
  - 8.10    Communication, E. Demers
  - 8.20    Discussion
  
- 9    15 Min    Sidewalk Strategic Plan
  - 9.10    Communication, S. Goodkind & N. Losch
  - 9.20    Discussion
  
- 10   20 Min    CCTA Bus Parking St. Paul St
  - 10.10   Oral Discussion, A. Frank
  - 10.20   Discussion
  
- 11   20 Min    FY13 Budget Presentation
  - 11.10   Oral Presentation, S. Goodkind
  - 11.20   Discussion
  
- 12   20 Min    FY12 Quarterly Budget Report – To be handed out at the meeting
  - 12.10   Communication, S. Goodkind
  - 12.20   Discussion
  
- 13            Minutes of 12/21/11
  
- 14            Chair's Report
  
- 15            Director's Report
  
- 16            Commissioner Communications
  
- 17            Committee Reports
  
- 18            Policy Update
  
- 19            Adjournment





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**Steven Goodkind, P.E.**  
*DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER*

**Norman J. Baldwin, P.E.**  
*ASSISTANT DIRECTOR OF PUBLIC WORKS*

January 10, 2012

**TO: Public Works Commission**

**FROM: Norman Baldwin, P.E.**   
**Assistant Director-Technical Services**

**RE: 59-61 North Prospect Street-3<sup>rd</sup> Story Apartment 2<sup>nd</sup> Means of Egress Appeal**

---

The Department has received an appeal request from Alan & Hildergard Cooke; letter dated September 6, 2011. Mr.&Mrs.Cooke are appealing Code Enforcement's determination that their 3<sup>rd</sup> Floor Apartment at 59-61 North Prospect Street does not have an adequate second means of egress.

As staff for the Commission I have had phone conversations in December notifying Mr. Cooke that is the department's intent to have his appeal heard Wednesday, January 18, 2012. It was then that Mr. Cooke verbally committed he would be in attendance.

As a follow up to the verbal conversation, I sent the attached letter dated December 28, 2011 via certified mail with a return receipt providing that same notice as well as further direction. Including in this packet item I have attached the associated return receipt card.

Furthermore, Mr. Cooke following my written direction did submit additional written correspondence for your consideration to be submitted as part of the Commission packet(see Mr. Cooke's letter dated 1/9/12).

Mr. Cooke as the appellant and Bill Ward representing Code Enforcement have been notified of the upcoming meeting. Both are prepared to attend upcoming appeal hearing and present their respective positions for your consideration.

I along with the Assistant City Attorney, Gene Bergman will be present to support the commission in your deliberations.

c.c Gene Bergman, Assistant City Attorney  
William Ward, Director of Code Enforcement  
Mr.&Mrs.Cooke, Appellant

01/09/12

RECEIVED

JAN - 9 2012

BURLINGTON PUBLIC  
WORKS

TO : Norman Baldwin  
Assistant Director of Public Works

FROM: Alan & Hildegard Cooke

SUBJECT: Appeal of Code Enforcement Order

REFERENCE: Re-Inspection 59-61 N. Prospect St.  
Inspection 213100

FINDING: Third Floor (Unit 4) Occupied  
without Second Means of Egress

We have owned the referenced property  
for 36 years and have had numerous  
Code Enforcement Inspections.

The current practice is as follows:

There is a third floor exterior  
steel fire escape to the street  
level from unit 5.

The third floor has 2 units;  
front-unit 4; rear-unit 5, with  
access to the exterior fire escape  
to the street level.



Unit 4 has key access (enclosed in glass case - emergency use) to unit 5, to exit the fire escape which is currently their second means of egress.

Unit 5 is clearly marked "EXIT."

The tenants in units 4 and 5 have been informed and have agreed to the key arrangement prior to lease signing as a second means of egress.

We are requesting that this key arrangement be continued as an acceptable, safe second means of egress for unit 4, as it has been during our 35 year ownership and prior

Sincerely,

Alan G. Cooke

ALAN G. COOKE

Hildegard A. Cooke

(Hildegard A. Cooke)

PAGE 2 of 2





09/06/11  
PAGE 1 OF 2

TO: W. WARD, DIRECTOR. CODE ENFORCEMENT  
645 PINE ST.  
BURLINGTON, VT. 05402-0849

FROM: ALAN & HILDEGARD COOKE  
25 McINTOSH AV.  
SO. BURLINGTON, VT 05403

SUBJECT: RE-INSPECTION 59-61 No. PROSPECT ST  
INSPECTION 213100 & Order.

DEAR MR. WARD:

We are appealing the subject Order that one 3<sup>RD</sup> floor apartment does not have a second means of egress area at Grade.

We are appealing the subject Order that a third floor occupied unit (Apt. 61-4) is without a second means of egress.

The existing second means of egress is from apt. 61-4 down a nine foot hall through apt. 61-5 to a fire escape to an area at grade.

This has been the practice during our ownership (1976) and during the previous ownership.

It has been accepted at previous Code Enforcement Inspections as an adequate second means of egress.



In addition, we are appealing any re-inspection fees in this order.

We have been working on this issue since the June Inspection, jointly with City Departments, and will continue to do so, until successful completion, to the satisfaction of all parties concerned.

Sincerely,

Alan L. Cooke

Hedward A. Cooke





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**Steven Goodkind, P.E.**  
*DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER*

**Norman J. Baldwin, P.E.**  
*ASSISTANT DIRECTOR OF PUBLIC WORKS*

December 28, 2009

Alan & Hildegard Cooke  
25 McIntosh Avenue  
South Burlington, Vermont 05403

Re: Appeal of Code Enforcement Order for 59-61 No. Prospect Street

Dear Mr. & Ms. Cooke:

Please consider this as formal written notice of an upcoming appeal hearing that will be heard before the Public Works Commission, regarding a Code Enforcement Order for your property at 59-61 North Prospect Street, Burlington, Vermont.

**NOTICE OF HEARING**

Pursuant to Burlington Code of Ordinances, Chapter 18, DIVISION 5. FIRE SAFETY REQUIREMENTS please take notice that the Public Works Commission will hold a hearing related to appeal the decisions, order, actions of the City to enforce the Minimum Housing Standards associated with 59-61 North Prospect Street at 6:15 p.m. on Wednesday, January 18, 2012 in the Front Conference Room of the Department of Public Works at 645 Pine St. in Burlington, Vermont.

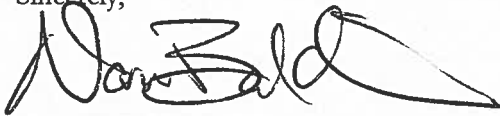
In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specify the factual or legal basis of the appeal, and must be submitted to my attention, at our office by no later than Monday, January 9, 2012, 4:30 p.m...

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party's position. Witnesses must be present; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 10 copies of each document to the hearing.

If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Sincerely,

A handwritten signature in black ink, appearing to read "Norm Baldwin". The signature is fluid and cursive, with a large, sweeping final stroke that extends to the right.

Norman Baldwin, P.E.  
Assistant Director of Public Works



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  X <i>Hildegard A. Cooke</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>Alan &amp; Hildegard Cooke</i>  <i>25 McIntosh Ave</i>  <i>S. Burlington VT 05403</i></p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery <i>12-31</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No  If YES, enter delivery address below: _____</p>	
		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>2. Article Number  (Transfer from service label) <b>7008 3230 0002 9264 2965</b></p>			

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-154

U.S. Postal Service™	
<b>CERTIFIED MAIL™ RECEIPT</b>	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$ <i>.44</i>
Certified Fee	<i>2.85</i>
Return Receipt Fee (Endorsement Required)	<i>2.30</i>
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	<b>\$5.59</b>
Postmark Here <i>12-31</i>	
Sent To: <i>Alan &amp; Hildegard Cooke</i>	
Street, Apt. No., or PO Box No. <i>25 McIntosh Ave</i>	
City, State, ZIP+4 <i>S. Burlington VT 05403</i>	

7008 3230 0002 9264 2965



KENNETH A. SCHATZ, Esq.  
City Attorney

EUGENE M. BERGMAN, Esq.  
Sr. Assistant City Attorney

NIKKI A. FULLER, Esq.  
Assistant City Attorney

RICHARD W. HAESLER, JR., Esq.  
Assistant City Attorney

CITY OF BURLINGTON, VERMONT

OFFICE OF

THE CITY ATTORNEY

AND

CORPORATION COUNSEL

149 CHURCH ST.  
BURLINGTON, VT 05401-8489  
(802) 865-7121  
(TTY) 865-7142  
FAX 865-7123

**To: Burlington Public Works Commission**  
**CC: Norm Baldwin, Asst. Director, DPW**  
**William Ward, Director, Code Enforcement**  
**From: Gene Bergman, Sr. Asst. City Attorney** *JB*  
**Jeff Guevin, Legal Intern** *JB*  
**Re: Guidance for the Conduct of Appeal Hearings**  
**Date: July 11, 2011**

At a prior meeting, the commission asked for basic guidance on how to conduct hearings.

**Guidance for Conducting Appeal Hearings by the Public Works Commission**

*On the record review*

Appeals of the commission's decisions are heard on the record. Appeals must be filed within 30 days of the date the decision is issued. The threshold for what constitutes a notice of appeal is very low; it is simply a statement that a person wants to appeal.

On the record review requires you to provide the parties with an adequate opportunity to develop the facts and their arguments at the hearing. As long as your decision is consistent with the law, made in good faith and not arbitrary or capricious, the court should uphold it. The commission's interpretation of the applicable laws will be given deference as long as your interpretation is reasonable and within your area of expertise, the building, electrical and plumbing codes.

The decision should be in writing and must be based on the factual evidence presented at the hearing. There must be findings and these must be based on the evidence that is introduced. Findings are *not* just repetitions of the evidence that was presented. Instead, findings are conclusions about which facts are relevant, important, and credible. The decision's conclusions are based on these findings and the law as applied to them. The decision must have an order that flows from these findings and conclusions. Usually, the City Attorney drafts the decision for the commission's review and approval after prior consultation in a deliberative session. The deliberative session does not have to be held in public but there is no prohibition against it being public. If a special, written decision is not wanted, then the decision must be announced in public, with the minutes of the meeting

acting as the written record of the decision; the minutes must clearly state the decision, the findings, the conclusions and the order.

The commission should decide if the chair is the "presiding officer" and has the power to make the decisions as to the introduction of evidence or its exclusion as well as other procedural matters. The chair can have this power but some or all of these decisions can be made by the commission as a whole based on a motion and a vote. Generally, the presiding officer makes these procedural decisions. The key is to be consistent.

### *Evidence*

Testimony should be taken under oath. The rules of evidence are somewhat relaxed, including allowing evidence "of a type relied upon by reasonably prudent people [i.e., you] in the conduct of their affairs." Irrelevant, immaterial, or unduly repetitious material should be excluded. Make sure all evidence considered by the commission is presented during the hearing and that this is clearly stated so it is noted in the transcript. Make sure every commission member considers the same pieces of evidence. The basic information should get into the record: who, what, where, and when.

1. Who are the parties involved? Usually, the inspector and a private party that is appealing the inspector's order. Make sure to ask each person who speaks to state their name, their job title or relationship to the property, and the reason they are testifying. Remember: *any interested person*, not just the property owner, can appeal an order both to the commission and the superior courts; so, it's important to have "who is who" clear in the record.
2. What is being appealed? The order (hopefully it is a written order) should be introduced, along with a statement of its legal basis.
3. Evidence of where the property in question is located should be introduced.
4. Get the dates of when the order was issued and when any violation occurred.

The official should testify first and introduce all the relevant facts related to the order. The official can also have other witnesses testify to support or supplement the official's testimony. Any documents being introduced should be numbered by staff and shown to the other side by the offering person. If the other side objects to a document becoming part of the record, you should ask why. The offering side then should have a chance to explain why the document should go into the record, unless the commission (i.e. presiding officer) decides that the document can be introduced without an argument. Witnesses should clearly refer to the documents when they testify.

The appellant goes after the official presents his or her case. You may ask the appellant and other witnesses to confirm or deny statements made by the inspector. The appellant should be given the chance to give her or his side of the facts, including through witnesses, and explain what is objectionable about the order, the points being appealed. The commission can focus on these points and exclude evidence that is irrelevant to the issues being appealed. When the commission is satisfied that it has gathered the necessary evidence the hearing can be closed.



## *Avoid*

Avoid basing a decision on what's called "public clamor." That is, the commission should carefully evaluate testimony from witnesses and weigh whether it is fact-based and reliable or mere opinion. Although overwhelmingly negative public opinion may be considered as one factor among many, decisions must not be based on mere opinions. If a crowd at the hearing becomes unruly, the chair may wish to continue the hearing at a later date to allow tempers to cool.

The commission must also avoid "ex parte" communications. This means members should not communicate about an appeal with the officer, appellant, witnesses, or other parties outside of the hearing. Sometimes these contacts are inevitable. Board members should err on the side of caution if they think they have had an ex parte communication and state for the record during the hearing the parties to and time and content of the communication. You can rely on departmental staff for advice and assistance but that staff must avoid ex-parte communications too, since they are your agents. Communications with the parties should be made at the hearing or in writing, addressed and sent to all parties.

Finally, board members should avoid any appearance of impropriety. This includes any interest, direct or indirect, in the outcome of a hearing. If a commissioner thinks he or she may have a conflict of interest, it is better that he or she state it at the beginning of the hearing and recuse him- or herself if necessary.

## *Record on Appeal: Minutes, Evidence, Findings, and Decision*

If your decision is appealed, the record will be all writings and exhibits introduced and a transcript of any oral proceedings and the minutes. These have to be given to the court within 30 days after the appellant files notice with the superior court. (If a party wants a transcript, they must pay for it.) If a hearing is conducted as part of a meeting, instead of as a separate proceeding, the minutes of that portion of the meeting devoted to the hearing are not the transcript; minutes should comply with the public records law's requirements for minutes. Minutes should have copies of evidence that was introduced attached and include general descriptions of what was said by whom. The Hearings should be recorded.

We hope this has been responsive to your request for guidance. The City Attorney's Office is available to elaborate on these points if the commission would find it helpful.

## **The Chair's Crib Sheet**

*Use this checklist to help make sure the record is adequate.*

\_\_\_ Names and other information about all people who testified.

\_\_\_ Location of the property.

\_\_\_ Applicable ordinances and statutes.

\_\_\_ Date of the order.

\_\_\_ Reason for the order.

\_\_\_ Reason for the appeal.

\_\_\_ Disputed facts.

\_\_\_ All board members have a copy or at least have seen all documentary evidence provided.

# CITY OF BURLINGTON

ORDINANCE 7.0

Sponsor: Public Works Dept.,  
Public Works Com., Code Enforcement Office

Public Hearing Dates \_\_\_\_\_

In the Year Two Thousand \_\_\_\_\_  
Nine

## An Ordinance in Relation to

BUILDINGS AND BUILDING CONSTRUCTION\*  
ARTICLE III, ABATEMENT AND REHABILITATION  
OF VACANT BUILDINGS AND STRUCTURES AND  
DANGEROUS STRUCTURES\*

First reading: 10/05/09

Referred to: Ordinance Committee

Rules suspended and placed in all  
stages of passage: \_\_\_\_\_

Second reading: 11/16/09; 12/07/09

Action: adopted

Date: 12/07/09

Signed by Mayor: 12/10/09

Published: 12/22/09

Effective: 01/12/10

**It is hereby Ordained** by the City Council of the City of Burlington, as follows:

That Chapter 8, Buildings and Building Construction, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 8-42, 8-43, 8-47, 8-48, 8-49 and 8-50 thereof to read as follows:

Sec. 8-42. Statement of findings and purpose.

(a) Being that there exist in the City of Burlington structures or buildings that have become dangerous or unsafe and numerous other structures that are vacant, abandoned, and in disrepair, the Burlington City Council finds and declares that:

- (1) Structures that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
- (2) Structures that are vacant and not properly secured are dangerous and unsafe in that they are extremely vulnerable to being set on fire by unauthorized persons.
- (3) Many structures that are vacant, whether secured or not, are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, and have an adverse impact upon adjacent and nearby properties.
- (4) Structures that were previously used as residential units and have since become vacant have a significant and detrimental impact on the local housing market.
- (5) Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal criminal activities, including arson and drug use.
- (6) Structures that are vacant and unsecured pose serious threats to the public's health and safety and therefore are declared to be public nuisances.
- (7) Immediate abatement and rehabilitation of these structures is necessary to abate such public nuisances, prevent unsightly blight and the deterioration of neighborhoods with the consequent adverse impact on the value of adjacent and nearby properties, secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.



ORIGINAL

AN ORDINANCE  
IN RELATION TO

Introduced by

Councilor \_\_\_\_\_

Read in City Council first time

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Rules suspended, and ordinance placed in all stages of passage.

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Read in City Council second time

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Passed in City Council at meeting held

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Approved \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_, Mayor.

I, \_\_\_\_\_, City Clerk of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for \_\_\_\_\_ day, namely the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Adopted \_\_\_\_\_ Published \_\_\_\_\_ Effective \_\_\_\_\_  
\_\_\_\_\_, City Clerk

Distribution

I hereby certify that this Ordinance has been sent to the following department(s) on

Attest:

\* \* \* \* \*

(8) Communication between owners of dangerous and vacant buildings and the city is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regards to such structures.

(b) The purpose of this article is to establish the reasonably necessary measures to abate the public nuisances, blight, negative housing market impact, and other harmful effects connected with dangerous and vacant or abandoned buildings and structures, and bring back into productive use consistent with the authority vested in the city to protect the health, safety and welfare of the public through the regulation of the construction, maintenance, repair, and alteration of buildings and other structures within the city.

#### Sec. 8-43. Definitions.

The words and phrases used in this section have the following meanings unless their context clearly indicates otherwise:

(1) *Director* means the director of the enforcement agency or his/her designee.

(2) ~~*Statement of intent* means a form filled out by the owner of a boarded vacant structure which contains specific information from the property owner regarding the structure and the owner's plans for its rehabilitation and maintenance or removal or demolition.~~

(3) *Vacant structure* means any structure or building that is unoccupied by a person or occupied by unauthorized persons for ~~ninety (90)~~ 210 days, excepting permitted warehouse or permitted storage structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis, and those structures being newly constructed within the terms of their building and zoning permits or under substantial rehabilitation for a period of 1 year from the date that the building permit or zoning permit is issued—whichever is later.

(3) *Dangerous building or structure* means a building or structure or part thereof declared structurally unsafe or hazardous by any duly constituted authority, whether it is occupied, unoccupied, or vacant.

(4) *A showing that the building is being actively marketed for sale or lease* means evidence of (a) some form of advertising for the sale of the building or structure evidence that the building or structure is being continuously marketed for sale or lease and is publicly available and viewable for sale or lease to prospective buyers or lessees until it is under contract, and (b) the availability of the building or structure to prospective buyers, and (c) the disclosure of a reasonable asking price.

(6) *Substantial rehabilitation* means rehabilitation the value of which exceeds fifty (50) percent of the assessed valuation of the building or structure.

(7) (5) *Owner* shall mean any and all owners of record or trustees for such owners. The obligations of owners under this article extend to the agents of such owner(s) or other persons interested in the building or structure.

#### Sec. 8-44. Enforcement authority.

As written.

#### Sec. 8-45. Obligations of owners of dangerous structures and buildings.

As written.

#### Sec. 8-46. Obligations of owners of vacant or abandoned buildings or structures.

As written.

#### Sec. 8-47. Vacant building permit; inspection; maintenance standards; fees.

(a) Application by the owner of a vacant building or structure for a vacant building permit shall be made on a form provided by the director. Applicants shall provide a maintenance plan covering the permit period which shall disclose all measures to be taken to ensure that the building or structure will be kept weather-tight and secure from trespassers, safe for entry by police officers and firefighters in times of exigent

circumstances or emergency, compliant with the obligations set forth in section 8-46 and 8-47 (e) and together with its premises be free from nuisance and in good order in conformance with the vacant building maintenance standards. The application shall include a "statement of intent." ~~The statement of intent shall include but not necessarily be limited to information as to~~ Applicants shall disclose the expected period of vacancy (including the date of vacancy), the plan for regular maintenance during the vacancy to comply with the maintenance safety requirements of this subsection, and state the a plan and timeline for the lawful occupancy, rehabilitation or removal or demolition of the structure.

(b) Vacant buildings shall be inspected at or around the beginning of the permit period to determine that they comply with this article. The owner shall cooperate with and attend the inspection. Upon and at the time of application, the owner of a vacant building or structure shall arrange for an inspection of the premises by the director and the appropriate police and fire officials. The propose of such inspection is determine and ensure the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in time of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building and structure is in compliance with the vacant building maintenance standards. If the director has reason to believe that an emergency situation exists tending to create an immediate danger to the health, welfare, or safety of the general public, no notification or warrant is necessary and the director shall enter and inspect the premises pursuant to section 8-45.

If the owner of the vacant building or structure ~~fails or refuses to consent to~~ does not cooperate with and or attend an inspection, the director shall may seek a search warrant from the Vermont District Court for the purpose of determining compliance with this article. and ensuring the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in time of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building and structure is in compliance with the vacant building maintenance standards.

(c) The director, upon inspection, shall issue any order for work needed to:

(1) Comply with this article and adequately protect the building from intrusion by trespassers and from deterioration by the weather in accordance with the vacant building maintenance standards set forth in this article; and

(2) Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to police officers or firefighters entering the premises in times of emergency.

When issuing such orders, the director shall specify the time for completion of the work. The order shall act as an interim vacant building permit, the duration of which shall be for the time set forth in the director's order. No interim permit shall be effective for a period of more than 3 months ninety (90) days. All work done pursuant to this article shall be done in compliance with the applicable building, fire prevention, and zoning codes and ordinances.

(d) The director shall issue a vacant building permit upon being satisfied that the building has been inspected and is in compliance with this article ~~the vacant building maintenance standards set forth in this article, and is adequately protected from intrusion by trespassers and from deterioration by the weather.~~ This permit shall be effective for a period of up to 3 months ninety (90) days.

(e) A vacant building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following vacant building maintenance standards:

(1) *Building openings:* Doors, windows, areaways and other openings shall be weather-tight and secured against entry by birds, vermin and trespassers and free from graffiti. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials which are weather protected, and tightly fitted and secured to the opening.



- (2) *Roofs*: The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.
- (3) *Drainage*: The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.
- (4) *Building structure*: The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage. The building shall be sanitary. The building shall not pose a threat to the public health and safety.
- (5) *Structural members*: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- (6) *Foundation walls*: The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, free from graffiti, and be animal and rat-proof.
- (7) *Exterior walls*: The exterior walls shall be free of holes, breaks, free from graffiti, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay, corrosion or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (8) *Decorative features*: The cornices, belt courses, corbels, terra cotta trim, fences, wall facings and similar decorative features shall be safe, anchored, and in good repair and free from graffiti. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay, corrosion or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (9) *Overhanging extensions*: All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound, and free from graffiti. Exposed metal and wood surfaces shall be protected from the elements and against decay, corrosion or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (10) *Chimneys and towers*: Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair, and free from graffiti. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (11) *Walkways*: Walkways shall be safe for pedestrian travel.
- (12) *Accessory and appurtenant structures*: Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these vacant building maintenance standards.
- (13) *Premises*: The premises upon which the structure or building is located shall be clean, safe, and sanitary, free from waste, rubbish, debris or excessive vegetation, and shall not pose a threat to the public health or safety.
- (f) (1) A fee of five hundred dollars (\$500.00) shall be charged for a vacant building permit or ~~interim permit~~. ~~This five hundred dollar fee shall also be charged upon the renewal of such permits.~~ The fee is to be paid at the time of application or renewal. No permit shall be issued prior to payment of the permit or renewal fee.
- (2) All but \$75.00 of this fee shall be waived upon a showing that the building or structure is being actively marketed for sale or lease and maintained pursuant to the requirements of this article and its vacant building permit or renewal thereof; this fee shall be waived. An owner shall be eligible for the waiver of the fee for no more than 8 permit periods, not including any interim permit period that occurs within a permit period. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the \$75.00. A person who purchases a vacant building shall have this fee waived for the remainder of the permit period and the permit period immediately following. The waiver of the permit fee for the active

marketing and maintenance of the building or structure shall be for a period of twelve (12) months from the time the fee first becomes due. This waiver may be extended for an additional year for such buildings if the owner (a) continues to show that the building or structure is being actively marketed for sale and maintained and (b) discloses the details of how the building was actively marketed for sale during the waiver year (i.e., offers, appraisals, or consultants engaged). Upon the expiration of the initial twelve-month period or its extension, the fee shall be charged.

(3) All but \$75.00 of this fee shall be waived when a building is being rehabilitated pursuant to applicable building, fire, and zoning permits and the owner has spent at least 5% of the assessed valuation of the building or structure on rehabilitation, not including the cost of permits, in the prior 3 month period. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the \$75.00. in need of substantial rehabilitation, as determined by the building inspector, to comply with the obligations and standards set forth in this article, no initial vacant building permit fee is required if the owner has: (i) developed and submitted a statement of intent, scope of work which meets the applicable building and housing standards and the obligations and standards set forth in this article, and a reasonable schedule for the completion of the work, approved by the director, and (ii) secured all necessary building and zoning permits. To qualify for a continued exemption upon renewal, the owner must certify that the improvements set forth in the scope of work are being made according to the schedule of work or prove to the director that the schedule will be completed within a reasonable amount of time.

(4) All but \$75.00 of this fee shall be waived if an owner has secured all the duly required state and local permits to demolish the building or structure, no fee shall be required. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the \$75.00. The owner shall demolish the building or structure within 3 months of securing said permits; this waiver shall be void and the vacant building permit fee shall be owed if the owner fails to demolish within this time. The time to demolish may be extended upon a showing of good cause.

#### Sec. 8-48. Appeals and variances.

(a) A party aggrieved by an action of the director shall appeal such action by requesting a hearing to the board of appeals pursuant to the provisions of section 8-8, excepting appeals of actions taken pursuant to section 8-45, which shall be taken in accordance with section 8-45(g)-(f).

(b) Any person subject to the provisions of this article may seek a variance from the provisions of this article before the board of appeals in the same manner that an appeal is taken to the board, and subject to the same procedures as an appeal.

(c) Where a variance is requested by an applicant, the board of appeals may grant such a variance, and render a decision in favor of the appellant, if the following are found by the board:

(1) That there are circumstances or conditions that make strict compliance with the provisions of this article unusually difficult or unduly extensive, or would create an undue hardship:

(2) That such a hardship or condition has not been created by the applicant; and

(3) That the variance requested will represent the minimum relief necessary and will represent the least deviation possible from the requirements of this article vacant building maintenance standards.

(d) In rendering a decision in favor of an applicant, the board of appeals shall attach such conditions to such variance as it considers necessary and appropriate under the circumstances to implement the purposes of this article.

#### Sec. 8-49. Enforcement and penalties

##### (a) Penalty

(1) A person shall be subject to a civil penalty of \$200 with a waiver penalty of \$150 for the following offenses:

An Ordinance in Relation to

BUILDINGS AND BUILDING CONSTRUCTION\*  
ARTICLE III. ABATEMENT AND REHABILITATION  
OF VACANT BUILDINGS AND STRUCTURES AND  
DANGEROUS STRUCTURES\*

- (A) Failure to apply for a vacant building permit or the filing of an incomplete application;  
(B) Failure to pay the vacant building fee;  
(C) Failure to schedule an inspection or to show up for an inspection for which notice has been given;  
(D) Failure to comply with the obligations set forth in § 8-46 (c) and (d); and  
(E) Failure to comply with an order of the enforcement officer in the time required, with each separate deficiency ordered to be corrected being deemed a separate order;

(2) A person who repeats the same offenses 3 times within a 12 month period shall be deemed to have committed a criminal offense for the third offense subject to a fine of \$500. Any person found to be in violation of any provision of this article shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) and/or imprisonment for not more than thirty (30) days pursuant to section 1-9(a). Each day's failure to comply with an order of the director shall constitute a separate offense.

(3) Prosecution under this section is a remedy cumulative to any and all other remedies at law and equity, and in no way pre-empts, supersedes, or bars prosecution for violation of this article under subsection (b) of this section.

(b) Any violation of this article is also declared to be a public nuisance and subject to removal or abatement upon a finding of violation by the superior court. An abatement action as contemplated by section 8-45 is discretionary and is not a precondition to criminal prosecution under this section, nor is a survey report by the director pursuant to section 8-45 a prerequisite for prosecution under this section.

(c) Any order issued pursuant to this article shall be recorded in the office where the land records are kept, thereby becoming effective against any purchaser, mortgagee, attaching creditor, lienholder or other person whose claim or interest in the property arises subsequent to the recording of the order. Once the violation(s) is certified to be corrected, such orders shall be removed from the record. All fees, costs, or charges assessed pursuant to this article shall be a tax lien upon the real property pursuant to 32 V.S.A. § 5061, so long as the lien is recorded in the office where the land records are kept.

~~Sec. 8-50. Implementation:~~

~~The effective date of the requirements under this article shall be ninety (90) days after city council passage of the article as amended. The existing article shall remain in effect until the effective date of the amended article.~~

Secs. 8-51--8-59. Reserved.

\* Material stricken out deleted.

\*\* Material underlined added.



# AN ORDINANCE

## Distribution

Public Works Department  
Code Enforcement Office

**Mayor.**

Asst. CAO , City Clerk /

Attest:  
*Sherry*  
Lori Olberg  
Licensing, Voting & Records Coordinator



**CITY OF BURLINGTON  
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street  
Post Office Box 849  
Burlington, Vermont 05402-0849  
802.863.9094 VOX  
802.863.0466 FAX  
802.863.0450 TTY


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**Steven Goodkind, P.E.**  
*DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER*

**Norman J. Baldwin, P.E.**  
*ASSISTANT DIRECTOR OF PUBLIC WORKS*

January 10, 2012

**TO: Public Works Commission**

**FROM: Norman Baldwin, P.E.**   
**Assistant Director-Technical Services**

**RE: 19-21 North Street Vacant Building Appeal**

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The Department has received an appeal request from Nelberta Lunde, letter dated October 12, 2011, 2009. Ms.Lunde is appealing Code Enforcement's determination that her property at 19-21 North Street is a vacant building subject to the vacant building requirements.

Staff has made multiple attempts at contacting Ms.Lunde to schedule the opportunity for her appeal to be heard. Effort to contact Ms.Lunde began prior to this past December's meeting and unfortunately as staff, I was not able to confirm Ms.Lunde's ability to attend. I had:

- left multiple voice messages and at a week or two prior to the December meeting I was able to speak to a person whom I believe was Mr.Lunde at the contact number, in that conversation I was unable to confirm Lunde's attendance, the date was left for consideration and was not confirmed.
- On December 21, 2010 I received a voice message from Mr.Lunde stating that he had not been given notice of the meeting and was inquiring if the meeting had been scheduled.

As a result of my efforts in December it was decided that the appeal would not be heard and was deferred to the upcoming January agenda.

In my efforts to schedule this item on the upcoming January agenda I had elected to:

- send written notice to the appellant via certified mail. The attached certified letter was sent December 30, 2011. I have yet to receive a return receipt from the post office.
- In addition I again had made multiple attempts to contact Ms.Lunde by calling on, (1/6/12, 1/10/12) at the contact number 279-4404. I left a voice message on each occasion. The voice message for the contact number confirms I have the right contact number given the voice messages provides an automated voice messages response along followed by a gentleman's voice stating his name Alfred Lunde.

At this point I have elected to go ahead with placing this time on the agenda to be heard and I will continue to attempt to make contact with Ms.Lunde.

I have reached out to the attorney's office for guidance on this issue and I am acting according to the advice given.

Included in the packet is:

- Ms.Lunde's letter correspondence requesting her appeal to be heard.
- A packet of information provided the commission from Will Ward representing the Code Enforcement Office regarding the appeal.
- The letter I had sent via certified mail December 30, 2011.
- Copy of the most current Vacant Building Ordinance
- Guidance for Conducting Appeal Hearings by the Public Works Commission provided by the City Attorney's Office

Assistant City Attorney, Eugene Bergman will make every attempt to be in attendance to provide the commission with legal guidance. Mr.Bergman has a previous commitment and can only be in attendance early in the agenda.

c.c Gene Bergman, Assistant City Attorney  
William Ward, Director of Code Enforcement  
Alberta Lunde, Appellant



**CODE ENFORCEMENT OFFICE**

645A Pine St, PO Box 849  
Burlington, VT 05402-0849  
**VOICE (802) 863-0442**  
FAX: (802) 652-4221

**TO:** Department of Public Works Commission

**FROM:** William Ward, Director of Code Enforcement

**DATE:** September 22 2011

**RE:** Report on Appeal of 19-21 North Street Vacant Building Status

**Owner of Record:** Nelberta Brink Lunde  
20 Lunde Lane  
Barre, VT 05641

**Description and overview of the Property**

The property is a two story wooden structure located between the Opportunities Credit Union and the Olde Northender Pub on North Street.

The property is listed in the Amanda database as R3, or zoned as a three family property. The City Assessor lists the building value at \$97,400.00 and the land value at \$101,600.00.

- The property was registered and inspected as rental units in the 1980s and 1990's.
- The owner sent notice to Department of Public Works on March 31, 2004 indicating the property would no longer be used as a rental as of that date.
- There is a Vacant Building Permit Application dated July 1, 2004 indicating the owner was making renovations and expected the period of vacancy to be two (2) 3 month periods. The fee for this period was \$1,000.
- There is a letter in the file from the property owner's attorney dated July 6, 2004 which states "Please find the \$1,000.00 check and the Vacant Building Permit for Nelberta Brink. With the receipt of these items please drop the charges against my client, per our agreement."

There is no record of a follow-up inspection after July 2004 to verify that the building was occupied. There is no permit activity in the Amanda Database between 2004 and 2011.

**Vacant Building Determination:**

The current status of the property was determined vacant by the Director of Code Enforcement using the following facts:

- A site inspection on September 30, 2011 revealed an inoperable motor vehicle stored in the back yard. There was no answer at the door and no sign of activity at the property on this date.
- A check of city water department records revealed that there had not been any water usage at the property for at least 3 years.

- A check of electric usage at the property shows electric consumption as follows:

**19 North Street**

<u>Month</u>	<u>Actual KW consumption</u>
December 2011	45
November 2011	30
October 2011	30
September 2011	27
August 2011	26
July 2011	32
June 2011	33
May 2011	39
April 2011	96
March 2011	4
February 2011	25
January 2011	14
December 2010	10
November 2010	0
October 2010	0
September 2010	0

**21 North Street**

<u>Month</u>	<u>Actual KW consumption</u>
December 2011	85
November 2011	39
October 2011	0
September 2011	1
August 2011	0
July 2011	0
June 2011	0
May 2011	0
April 2011	0
March 2011	1
February 2011	0
January 2011	1
December 2010	0
November 2010	0
October 2010	0
September 2010	2

The Vermont Department of Public Service reports that the average household consumption of energy in VT is about 750 kilowatts per month.

## **Owner notification**

- The property owners were sent a Vacant Building Notice on October 12, 2011 indicating that it was the determination of the Code Enforcement Office that the building was vacant and subject to the vacant building ordinance. Our letter included notice of a scheduled inspection of the property on Thursday, October 27, 2011.
- The owner responded in writing that the inspection was not acceptable to them. Code conducted the inspection of the exterior of the property on October 27, 2011 without the owner present. The inoperative vehicle that was present on September 30, 2011 was no longer present on October 27, 2011.
- The building was found to be properly secured. The exterior trim and painted surfaces have large areas of peeling and chipped paint which is a violation of city ordinance.
- There is a subterranean brick vault or pit in the back yard covered by sheets of plywood. The pit appears to be 80 to 90 % filled with sand, but remains a safety concern because the sand does not appear compacted and the depth of the pit is unknown by staff.

Notes from vacant building administrator, Linda Ayer, indicate that on 10/24/11 "Mr. Alfred Lunde came into the offices at 4:25 PM with a blank application and a letter from Nelberta Brink Lunde stating that she is appealing the vacant building notice dated October 12, 2011. Mr. Lunde stated that he uses the apt. when he is in town and brings spring water from Williamstown."

## **Summary**

Code Enforcement Office requests that the Public Works Commission uphold the determination that the building has been and remains vacant and to order the owner(s) to comply with the requirements of the Vacant Building Ordinance.





**CITY OF BURLINGTON  
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street  
Post Office Box 849  
Burlington, Vermont 05402-0849  
802.863.9094 VOX  
802.863.0466 FAX  
802.863.0450 TTY

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**Steven Goodkind, P.E.**  
*DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER*

**Norman J. Baldwin, P.E.**  
*ASSISTANT DIRECTOR OF PUBLIC WORKS*

December 28, 2009

Nelberta Brink Lunde  
20 Lunde Lane  
Barre, Vermont 05641

Re: Appeal of Code Enforcement Vacant Building Determination for 19-21 North Street

Dear Ms. Lunde:

Please consider this as formal written notice of an upcoming appeal hearing that will be heard before the Public Works Commission, regarding a Code Enforcement Vacant Building Determination for your property at 19-21 North Street, Burlington, Vermont.

**NOTICE OF HEARING**

Pursuant to Burlington Code of Ordinances Chapter 8, Article III, ABATEMENT AND REHABILITATION OF VACANT BUILDINGS AND DANGEROUS STRUCTURES please take notice that the Public Works Commission will hold a hearing related to appeal the decisions, order, actions of the City to enforce the Vacant Building Standards associated with 19-21 North Street at 6:15 p.m. on Wednesday, January 18, 2012 in the Front Conference Room of the Department of Public Works at 645 Pine St. in Burlington, Vermont.

In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specify the factual or legal basis of the appeal, and must be submitted to my attention, at our office by no later than Monday, January 9, 2012, 4:30 p.m...

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party's position. Witnesses must be present; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 10 copies of each document to the hearing.

If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norm Baldwin".

Norman Baldwin, P.E.

Assistant Director of Public Works

c.c. William Ward, Director of Code Enforcement

Bob Alberry, Chairman of the Public Works Commission

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Here

12221

Sent To	Nelberta Lund
Street, Apt. No., or PO Box No.	20 Lund LN
City, State, ZIP	Barre VT 05641

2262 4926 2000 0E2E 9002



Nelberta B. Lunde  
20 Lunde Lane  
Barre, VT 05641  
October 22, 2011

Administrator, Dept. Public Works  
645A Pine Street  
Burlington, VT 05401  
802-863-9094 Fax 802-863-0466

*19 North St.*

RECEIVED  
OCT 24 2011  
BURLINGTON PUBLIC  
WORKS

RE: Vacant Building Notice, letter dated Oct. 12, 2011

Dear Administrator:

Please be advised this is:

NOTICE OF APPEAL  
VACANT BUILDING NOTICE

PLEASE be advised this building is not a public building and it is occupied by co-owner Alfred Lunde. He is a resident of Burlington and has been for many years.

This building is in very good condition, secure, and not accessed by the public.

Thank you for our consideration and a hearing if necessary.

Yours truly,

*Nelberta B. Lunde*

Nelberta B. Lunde

/NAB

cc: Ms. Linda Ayre, Code Admin.

*Alfred Lundy  
(cc) 279-4404*

*Called 1/6/12 left message notifying date of hearing  
Called 1/10/12 left message again reporting date, time, location*



CITY OF BURLINGTON, VERMONT

OFFICE OF

THE CITY ATTORNEY

AND

CORPORATION COUNSEL

149 CHURCH ST.  
BURLINGTON, VT 05401-8489  
(802) 865-7121  
(TTY) 865-7142  
FAX 865-7123

KENNETH A. SCHATZ, Esq.  
City Attorney

EUGENE M. BERGMAN, Esq.  
Sr. Assistant City Attorney

NIKKI A. FULLER, Esq.  
Assistant City Attorney

RICHARD W. HAESLER, JR., Esq.  
Assistant City Attorney

**To: Burlington Public Works Commission**  
**CC: Norm Baldwin, Asst. Director, DPW**  
**William Ward, Director, Code Enforcement**  
**From: Gene Bergman, Sr. Asst. City Attorney** *GB*  
**Jeff Guevin, Legal Intern** *JG*  
**Re: Guidance for the Conduct of Appeal Hearings**  
**Date: July 11, 2011**

At a prior meeting, the commission asked for basic guidance on how to conduct hearings.

**Guidance for Conducting Appeal Hearings by the Public Works Commission**

*On the record review*

Appeals of the commission's decisions are heard on the record. Appeals must be filed within 30 days of the date the decision is issued. The threshold for what constitutes a notice of appeal is very low; it is simply a statement that a person wants to appeal.

On the record review requires you to provide the parties with an adequate opportunity to develop the facts and their arguments at the hearing. As long as your decision is consistent with the law, made in good faith and not arbitrary or capricious, the court should uphold it. The commission's interpretation of the applicable laws will be given deference as long as your interpretation is reasonable and within your area of expertise, the building, electrical and plumbing codes.

The decision should be in writing and must be based on the factual evidence presented at the hearing. There must be findings and these must be based on the evidence that is introduced. Findings are *not* just repetitions of the evidence that was presented. Instead, findings are conclusions about which facts are relevant, important, and credible. The decision's conclusions are based on these findings and the law as applied to them. The decision must have an order that flows from these findings and conclusions. Usually, the City Attorney drafts the decision for the commission's review and approval after prior consultation in a deliberative session. The deliberative session does not have to be held in public but there is no prohibition against it being public. If a special, written decision is not wanted, then the decision must be announced in public, with the minutes of the meeting

acting as the written record of the decision; the minutes must clearly state the decision, the findings, the conclusions and the order.

The commission should decide if the chair is the "presiding officer" and has the power to make the decisions as to the introduction of evidence or its exclusion as well as other procedural matters. The chair can have this power but some or all of these decisions can be made by the commission as a whole based on a motion and a vote. Generally, the presiding officer makes these procedural decisions. The key is to be consistent.

### *Evidence*

Testimony should be taken under oath. The rules of evidence are somewhat relaxed, including allowing evidence "of a type relied upon by reasonably prudent people [i.e., you] in the conduct of their affairs." Irrelevant, immaterial, or unduly repetitious material should be excluded. Make sure all evidence considered by the commission is presented during the hearing and that this is clearly stated so it is noted in the transcript. Make sure every commission member considers the same pieces of evidence. The basic information should get into the record: who, what, where, and when.

1. Who are the parties involved? Usually, the inspector and a private party that is appealing the inspector's order. Make sure to ask each person who speaks to state their name, their job title or relationship to the property, and the reason they are testifying. Remember: *any interested person*, not just the property owner, can appeal an order both to the commission and the superior courts; so, it's important to have "who is who" clear in the record.
2. What is being appealed? The order (hopefully it is a written order) should be introduced, along with a statement of its legal basis.
3. Evidence of where the property in question is located should be introduced.
4. Get the dates of when the order was issued and when any violation occurred.

The official should testify first and introduce all the relevant facts related to the order. The official can also have other witnesses testify to support or supplement the official's testimony. Any documents being introduced should be numbered by staff and shown to the other side by the offering person. If the other side objects to a document becoming part of the record, you should ask why. The offering side then should have a chance to explain why the document should go into the record, unless the commission (i.e. presiding officer) decides that the document can be introduced without an argument. Witnesses should clearly refer to the documents when they testify.

The appellant goes after the official presents his or her case. You may ask the appellant and other witnesses to confirm or deny statements made by the inspector. The appellant should be given the chance to give her or his side of the facts, including through witnesses, and explain what is objectionable about the order, the points being appealed. The commission can focus on these points and exclude evidence that is irrelevant to the issues being appealed. When the commission is satisfied that it has gathered the necessary evidence the hearing can be closed.



## *Avoid*

Avoid basing a decision on what's called "public clamor." That is, the commission should carefully evaluate testimony from witnesses and weigh whether it is fact-based and reliable or mere opinion. Although overwhelmingly negative public opinion may be considered as one factor among many, decisions must not be based on mere opinions. If a crowd at the hearing becomes unruly, the chair may wish to continue the hearing at a later date to allow tempers to cool.

The commission must also avoid "ex parte" communications. This means members should not communicate about an appeal with the officer, appellant, witnesses, or other parties outside of the hearing. Sometimes these contacts are inevitable. Board members should err on the side of caution if they think they have had an ex parte communication and state for the record during the hearing the parties to and time and content of the communication. You can rely on departmental staff for advice and assistance but that staff must avoid ex-parte communications too, since they are your agents. Communications with the parties should be made at the hearing or in writing, addressed and sent to all parties.

Finally, board members should avoid any appearance of impropriety. This includes any interest, direct or indirect, in the outcome of a hearing. If a commissioner thinks he or she may have a conflict of interest, it is better that he or she state it at the beginning of the hearing and recuse him- or herself if necessary.

## *Record on Appeal: Minutes, Evidence, Findings, and Decision*

If your decision is appealed, the record will be all writings and exhibits introduced and a transcript of any oral proceedings and the minutes. These have to be given to the court within 30 days after the appellant files notice with the superior court. (If a party wants a transcript, they must pay for it.) If a hearing is conducted as part of a meeting, instead of as a separate proceeding, the minutes of that portion of the meeting devoted to the hearing are not the transcript; minutes should comply with the public records law's requirements for minutes. Minutes should have copies of evidence that was introduced attached and include general descriptions of what was said by whom. The Hearings should be recorded.

We hope this has been responsive to your request for guidance. The City Attorney's Office is available to elaborate on these points if the commission would find it helpful.

## **The Chair's Crib Sheet**

*Use this checklist to help make sure the record is adequate.*

- ☐ Names and other information about all people who testified.
- ☐ Location of the property.
- ☐ Applicable ordinances and statutes.
- ☐ Date of the order.
- ☐ Reason for the order.
- ☐ Reason for the appeal.
- ☐ Disputed facts.
- ☐ All board members have a copy or at least have seen all documentary evidence provided.

# CITY OF BURLINGTON

ORDINANCE 7.0

Sponsor: Public Works Dept.,  
Public Works Com., Code Enforcement Office

Public Hearing Dates \_\_\_\_\_

In the Year Two Thousand \_\_\_\_\_  
Nine

## An Ordinance in Relation to

BUILDINGS AND BUILDING CONSTRUCTION\*  
ARTICLE III, ABATEMENT AND REHABILITATION  
OF VACANT BUILDINGS AND STRUCTURES AND  
DANGEROUS STRUCTURES\*

First reading: 10/05/09  
Referred to: Ordinance Committee  
Rules suspended and placed in all  
stages of passage: \_\_\_\_\_  
Second reading: 11/16/09; 12/07/09  
Action: adopted  
Date: 12/07/09  
Signed by Mayor: 12/10/09  
Published: 12/22/09  
Effective: 01/12/10

**It is hereby Ordained** by the City Council of the City of Burlington, as follows:

That Chapter 8, Buildings and Building Construction, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 8-42, 8-43, 8-47, 8-48, 8-49 and 8-50 thereof to read as follows:

### Sec. 8-42. Statement of findings and purpose.

(a) Being that there exist in the City of Burlington structures or buildings that have become dangerous or unsafe and numerous other structures that are vacant, abandoned, and in disrepair, the Burlington City Council finds and declares that:

- (1) Structures that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
- (2) Structures that are vacant and not properly secured are dangerous and unsafe in that they are extremely vulnerable to being set on fire by unauthorized persons.
- (3) Many structures that are vacant, whether secured or not, are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, and have an adverse impact upon adjacent and nearby properties.
- (4) Structures that were previously used as residential units and have since become vacant have a significant and detrimental impact on the local housing market.
- (5) Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal criminal activities, including arson and drug use.
- (6) Structures that are vacant and unsecured pose serious threats to the public's health and safety and therefore are declared to be public nuisances.
- (7) Immediate abatement and rehabilitation of these structures is necessary to abate such public nuisances, prevent unsightly blight and the deterioration of neighborhoods with the consequent adverse impact on the value of adjacent and nearby properties, secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.

ORIGINAL

AN ORDINANCE  
IN RELATION TO

Introduced by

Councilor

Read in City Council first time

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Rules suspended, and ordinance placed in all stages of passage.

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Read in City Council second time

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Passed in City Council at meeting held

\_\_\_\_\_, 20\_\_\_\_.

Attest,

\_\_\_\_\_, Clerk.

Approved \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_, Mayor.

I, \_\_\_\_\_, City Clerk of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for \_\_\_\_\_ day, namely the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Adopted \_\_\_\_\_ Published \_\_\_\_\_ Effective \_\_\_\_\_

\_\_\_\_\_, City Clerk

\* \* \* \* \*

Distribution

I hereby certify that this Ordinance has been sent to the following department(s) on

Attest:

\* \* \* \* \*



(8) Communication between owners of dangerous and vacant buildings and the city is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regards to such structures.

(b) The purpose of this article is to establish the reasonably necessary measures to abate the public nuisances, blight, negative housing market impact, and other harmful effects connected with dangerous and vacant or abandoned buildings and structures, and bring back into productive use consistent with the authority vested in the city to protect the health, safety and welfare of the public through the regulation of the construction, maintenance, repair, and alteration of buildings and other structures within the city.

#### Sec. 8-43. Definitions.

The words and phrases used in this section have the following meanings unless their context clearly indicates otherwise:

(1) *Director* means the director of the enforcement agency or his/her designee.

(2) ~~*Statement of intent* means a form filled out by the owner of a boarded vacant structure which contains specific information from the property owner regarding the structure and the owner's plans for its rehabilitation and maintenance or removal or demolition.~~

(3) *Vacant structure* means any structure or building that is unoccupied by a person or occupied by unauthorized persons for ~~ninety (90)~~ 210 days, excepting permitted warehouse or permitted storage structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis, and those structures being newly constructed within the terms of their building and zoning permits or under substantial rehabilitation for a period of 1 year from the date that the building permit or zoning permit is issued—whichever is later.

(3) *Dangerous building or structure* means a building or structure or part thereof declared structurally unsafe or hazardous by any duly constituted authority, whether it is occupied, unoccupied, or vacant.

(4) ~~*A showing that the building is being actively marketed for sale or lease* means evidence of (a) some form of advertising for the sale of the building or structure evidence that the building or structure is being continuously marketed for sale or lease and is publicly available and viewable for sale or lease to prospective buyers or lessees until it is under contract, and (b) the availability of the building or structure to prospective buyers, and (c) the disclosure of a reasonable asking price.~~

(6) *Substantial rehabilitation* means rehabilitation the value of which exceeds fifty (50) percent of the assessed valuation of the building or structure.

~~(7)~~ (5) *Owner* shall mean any and all owners of record or trustees for such owners. The obligations of owners under this article extend to the agents of such owner(s) or other persons interested in the building or structure.

#### Sec. 8-44. Enforcement authority.

As written.

#### Sec. 8-45. Obligations of owners of dangerous structures and buildings.

As written.

#### Sec. 8-46. Obligations of owners of vacant or abandoned buildings or structures.

As written.

#### Sec. 8-47. Vacant building permit; inspection; maintenance standards; fees.

(a) Application by the owner of a vacant building or structure for a vacant building permit shall be made on a form provided by the director. Applicants shall provide a maintenance plan covering the permit period which shall disclose all measures to be taken to ensure that the building or structure will be kept weather-tight and secure from trespassers, safe for entry by police officers and firefighters in times of exigent

circumstances or emergency, compliant with the obligations set forth in section 8-46 and 8-47 (e) and together with its premises be free from nuisance and in good order in conformance with the vacant building maintenance standards. The application shall include a "statement of intent." The statement of intent shall include but not necessarily be limited to information as to Applicants shall disclose the expected period of vacancy (including the date of vacancy), ~~the plan for regular maintenance during the vacancy to comply with the maintenance safety requirements of this subsection, and state the~~ a plan and timeline for the lawful occupancy, rehabilitation or removal or demolition of the structure.

(b) Vacant buildings shall be inspected at or around the beginning of the permit period to determine that they comply with this article. The owner shall cooperate with and attend the inspection. Upon and at the time of application, the owner of a vacant building or structure shall arrange for an inspection of the premises by the director and the appropriate police and fire officials. The propose of such inspection is determine and ensure the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in time of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building and structure is in compliance with the vacant building maintenance standards. If the director has reason to believe that an emergency situation exists tending to create an immediate danger to the health, welfare, or safety of the general public, no notification or warrant is necessary and the director shall enter and inspect the premises pursuant to section 8-45.

If the owner of the vacant building or structure ~~fails or refuses to consent to~~ does not cooperate with and or attend an inspection, the director ~~shall~~ may seek a search warrant from the Vermont District Court for the purpose of determining compliance with this article, and ensuring the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in time of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building and structure is in compliance with the vacant building maintenance standards.

(c) The director, upon inspection, shall issue any order for work needed to:

(1) Comply with this article and adequately protect the building from intrusion by trespassers and from deterioration by the weather in accordance with the vacant building maintenance standards set forth in this article; and

(2) Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to police officers or firefighters entering the premises in times of emergency.

When issuing such orders, the director shall specify the time for completion of the work. The order shall act as an interim vacant building permit, the duration of which shall be for the time set forth in the director's order. No interim permit shall be effective for a period of more than 3 months ~~ninety (90) days~~. All work done pursuant to this article shall be done in compliance with the applicable building, fire prevention, and zoning codes and ordinances.

(d) The director shall issue a vacant building permit upon being satisfied that the building has been inspected and is in compliance with this article ~~the vacant building maintenance standards set forth in this article, and is adequately protected from intrusion by trespassers and from deterioration by the weather.~~ This permit shall be effective for a period of up to 3 months ~~ninety (90) days~~.

(e) A vacant building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following vacant building maintenance standards:

(1) *Building openings:* Doors, windows, areaways and other openings shall be weather-tight and secured against entry by birds, vermin and trespassers and free from graffiti. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials which are weather protected, and tightly fitted and secured to the opening.

- (2) *Roofs*: The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.
- (3) *Drainage*: The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.
- (4) *Building structure*: The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage. The building shall be sanitary. The building shall not pose a threat to the public health and safety.
- (5) *Structural members*: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- (6) *Foundation walls*: The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, free from graffiti, and be animal and rat-proof.
- (7) *Exterior walls*: The exterior walls shall be free of holes, breaks, free from graffiti, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay, corrosion or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (8) *Decorative features*: The cornices, belt courses, corbels, terra cotta trim, fences, wall facings and similar decorative features shall be safe, anchored, and in good repair and free from graffiti. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay, corrosion or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (9) *Overhanging extensions*: All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound, and free from graffiti. Exposed metal and wood surfaces shall be protected from the elements and against decay, corrosion or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (10) *Chimneys and towers*: Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair, and free from graffiti. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (11) *Walkways*: Walkways shall be safe for pedestrian travel.
- (12) *Accessory and appurtenant structures*: Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these vacant building maintenance standards.
- (13) *Premises*: The premises upon which the structure or building is located shall be clean, safe, and sanitary, free from waste, rubbish, debris or excessive vegetation, and shall not pose a threat to the public health or safety.
- (f) (1) A fee of five hundred dollars (\$500.00) shall be charged for a vacant building permit or ~~interim permit. This five hundred dollar fee shall also be charged upon the renewal of such permits.~~ The fee is to be paid at the time of application or renewal. No permit shall be issued prior to payment of the permit or renewal fee.
- (2) All but \$75.00 of this fee shall be waived upon a showing that the building or structure is being actively marketed for sale or lease and maintained pursuant to the requirements of this article and its vacant building permit or renewal thereof, this fee shall be waived. An owner shall be eligible for the waiver of the fee for no more than 8 permit periods, not including any interim permit period that occurs within a permit period. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the \$75.00. A person who purchases a vacant building shall have this fee waived for the remainder of the permit period and the permit period immediately following. The waiver of the permit fee for the active

marketing and maintenance of the building or structure shall be for a period of twelve (12) months from the time the fee first becomes due. This waiver may be extended for an additional year for such buildings if the owner (a) continues to show that the building or structure is being actively marketed for sale and maintained and (b) discloses the details of how the building was actively marketed for sale during the waiver year (i.e., offers, appraisals, or consultants engaged). Upon the expiration of the initial twelve-month period or its extension, the fee shall be charged.

(3) All but \$75.00 of this fee shall be waived when a building is being rehabilitated pursuant to applicable building, fire, and zoning permits and the owner has spent at least 5% of the assessed valuation of the building or structure on rehabilitation, not including the cost of permits, in the prior 3 month period. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the \$75.00. in need of substantial rehabilitation, as determined by the building inspector, to comply with the obligations and standards set forth in this article, no initial vacant building permit fee is required if the owner has: (i) developed and submitted a statement of intent, scope of work which meets the applicable building and housing standards and the obligations and standards set forth in this article, and a reasonable schedule for the completion of the work, approved by the director, and (ii) secured all necessary building and zoning permits. To qualify for a continued exemption upon renewal, the owner must certify that the improvements set forth in the scope of work are being made according to the schedule of work or prove to the director that the schedule will be completed within a reasonable amount of time.

(4) All but \$75.00 of this fee shall be waived if an owner has secured all the duly required state and local permits to demolish the building or structure, no fee shall be required. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the \$75.00. The owner shall demolish the building or structure within 3 months of securing said permits; this waiver shall be void and the vacant building permit fee shall be owed if the owner fails to demolish within this time. The time to demolish may be extended upon a showing of good cause.

#### Sec. 8-48. Appeals and variances.

(a) A party aggrieved by an action of the director shall appeal such action by requesting a hearing to the board of appeals pursuant to the provisions of section 8-8, excepting appeals of actions taken pursuant to section 8-45, which shall be taken in accordance with section 8-45(g)-(f).

(b) Any person subject to the provisions of this article may seek a variance from the provisions of this article before the board of appeals in the same manner that an appeal is taken to the board, and subject to the same procedures as an appeal.

(c) Where a variance is requested by an applicant, the board of appeals may grant such a variance, and render a decision in favor of the appellant, if the following are found by the board:

(1) That there are circumstances or conditions that make strict compliance with the provisions of this article unusually difficult or unduly extensive, or would create an undue hardship:

(2) That such a hardship or condition has not been created by the applicant; and

(3) That the variance requested will represent the minimum relief necessary and will represent the least deviation possible from the requirements of this article ~~vacant building maintenance standards~~.

(d) In rendering a decision in favor of an applicant, the board of appeals shall attach such conditions to such variance as it considers necessary and appropriate under the circumstances to implement the purposes of this article.

#### Sec. 8-49. Enforcement and penalties

##### (a) Penalty

(1) A person shall be subject to a civil penalty of \$200 with a waiver penalty of \$150 for the following offenses:



An Ordinance in Relation to

BUILDINGS AND BUILDING CONSTRUCTION\*  
ARTICLE III. ABATEMENT AND REHABILITATION  
OF VACANT BUILDINGS AND STRUCTURES AND  
DANGEROUS STRUCTURES\*

- (A) Failure to apply for a vacant building permit or the filing of an incomplete application;  
(B) Failure to pay the vacant building fee;  
(C) Failure to schedule an inspection or to show up for an inspection for which notice has been given;  
(D) Failure to comply with the obligations set forth in § 8-46 (c) and (d); and  
(E) Failure to comply with an order of the enforcement officer in the time required, with each separate deficiency ordered to be corrected being deemed a separate order;

(2) A person who repeats the same offenses 3 times within a 12 month period shall be deemed to have committed a criminal offense for the third offense subject to a fine of \$500. Any person found to be in violation of any provision of this article shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) and/or imprisonment for not more than thirty (30) days pursuant to section 1-9(a). Each day's failure to comply with an order of the director shall constitute a separate offense.

(3) Prosecution under this section is a remedy cumulative to any and all other remedies at law and equity, and in no way pre-empts, supersedes, or bars prosecution for violation of this article under subsection (b) of this section.

(b) Any violation of this article is also declared to be a public nuisance and subject to removal or abatement upon a finding of violation by the superior court. An abatement action as contemplated by section 8-45 is discretionary and is not a precondition to criminal prosecution under this section, nor is a survey report by the director pursuant to section 8-45 a prerequisite for prosecution under this section.

(c) Any order issued pursuant to this article shall be recorded in the office where the land records are kept, thereby becoming effective against any purchaser, mortgagee, attaching creditor, lienholder or other person whose claim or interest in the property arises subsequent to the recording of the order. Once the violation(s) is certified to be corrected, such orders shall be removed from the record. All fees, costs, or charges assessed pursuant to this article shall be a tax lien upon the real property pursuant to 32 V.S.A. § 5061, so long as the lien is recorded in the office where the land records are kept.

Sec. 8-50. Implementation:

The effective date of the requirements under this article shall be ninety (90) days after city council passage of the article as amended. The existing article shall remain in effect until the effective date of the amended article.

Secs. 8-51--8-59. Reserved.

\* Material stricken out deleted.

\*\* Material underlined added.

ORIGINAL

# AN ORDINANCE

IN RELATION TO  
BUILDINGS AND BUILDING CONSTRUCTION\* ARTICLE III,  
ABATEMENT AND REHABILITATION OF VACANT BUILDINGS  
AND STRUCTURES AND DANGEROUS STRUCTURES\*

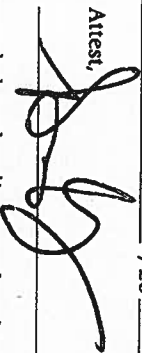
Introduced by

Robert J. J. J. Public Works Dept.; Public Works Com; Code  
Enforcement Office

Read in City Council first time

October 5, 2009

Attest,



Clerk

Rules suspended, and ordinance placed in all stages of passage.

, 20

Attest,

Clerk

Read in City Council second time

December 7, 2009

Attest,



Clerk

Passed in City Council at meeting held

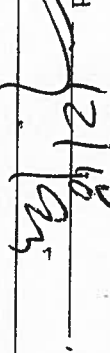
December 7, 2009

Attest,



Clerk

Approved



Mayor

Benjamin W. Pacy, Asst. CAO

I, City Clerk of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for Tuesday day,

namely the 22nd day of December, 20 09.

Adopted 12/07/09 Published 12/22/09 Effective 01/12/10

 Asst. CAO, City Clerk

## Distribution

I hereby certify that this Ordinance has been sent to the following department(s) on

Public Works Department  
Code Enforcement Office


Attest:  
  
Lori Olberg  
Licensing, Voting & Records Coordinat

\* \* \* \* \*



## MEMORANDUM

January 18, 2012

**TO:** Public Works Commission  
**FROM:** Joel Fleming   
**RE:** Handicapped Space on Greene Street

---

### Background:

Staff received a request for the addition of a handicapped parking space in front of 61 Greene Street. Jack Dretore, a handicapped resident recently moved onto Greene Street. The residence does not have a driveway so the resident is forced to park on the street. Greene Street is a small one-way street in the old north end. Parking is extremely sought after in this part of town and the resident is forced to park to blocks away and wheel himself to his residence.

### Observations:

Staff sent a letter out, dated December 19, 2011 asking for feedback on adding a handicapped parking spot in front of 61 Greene Street. Staff sent to 51, 54, 55, 58, 59, 61, 63, 64, 67, 68, 69, 71, and 72 Greene Street. Staff did not receive any feedback from any of these residence. Mr. Dretore has since called to thank staff for sending a letter out because he had gotten comments directly from his neighbors supporting a handicapped space in front of his residence.

### Conclusions:

Staff did not receive any feedback against the addition of a handicapped parking space on Greene Street.

### Recommendations:

Staff recommends that the space in front of 61 Greene Street becomes a handicapped space.



**CITY OF BURLINGTON**  
**DEPARTMENT OF PUBLIC WORKS**

OFFICE OF PLANNING  
645 PINE STREET, SUITE A  
BURLINGTON, VT 05402  
802.863.9094 P  
[WWW.DPW.CI.BURLINGTON.VT.US](http://WWW.DPW.CI.BURLINGTON.VT.US)

**JOEL FLEMING, E.I.T.**  
*PUBLIC WORKS ENGINEER*

---

December 19, 2011

Dear Greene Street Residents:

Public Works would like your thoughts on putting a handicapped parking space in front of #61 Greene Street. Recently a resident moved to this location and is in need of a handicapped space. I am looking for feedback by December 23<sup>rd</sup>. Please contact me at 865-5832 or [jfleming@ci.burlington.vt.us](mailto:jfleming@ci.burlington.vt.us).

Thanks for your time,

Joel Fleming, EIT  
Department of Public Works  
865-5832  
[jfleming@ci.burlington.vt.us](mailto:jfleming@ci.burlington.vt.us)

JF/mcb



\*TO: JOEL FLEMING  
FROM: JACK DETORE

PARKING  
HANDICAP SIGN

REASON AT 61 GREENE ST.  
OFF OF LEWIS ST.  
\* NO PARKING

\* JACK DETORE  
238-6958

THANK YOU!

IMPORTANT: REMOVE BEFORE  
DRIVING VEHICLE



**P23580**

Disabled Parking Identification



EXPIRES:

**NO  
EXPIRATION**

**VERMONT**  
PERMANENT

RECEIVED

DEC 16 2011

BURLINGTON PUBLIC  
WORKS

Loomis Street



Greene Street

Isham Street

Hickock place

71

69

67

63

61

59

55

51

72

68

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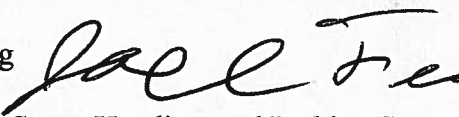
54

Proposed  
Handicapped  
Parking  
Space



## MEMORANDUM

January 18, 2012

**TO:** Public Works Commission  
**FROM:** Joel Fleming   
**RE:** 125 College Street Handicapped Parking Space

---

### Background:

In October staff received a request for the removal and replacement of the handicapped parking space in front of 125 College Street with a metered parking space. The building manager for 125 college stated that the space had been previously used by an employee at 125 College Street and that employee is no longer working on the premises.

### Observations:

Staff has looked at the handicapped parking space and conducted a parking survey for the space. The Space is 30 feet long which is larger than a typical parallel parking space at 20 feet. The larger space allows for easier access for larger handicap vans. The space also has its own tip down ramp for wheel chair access. This is the only space in the area that has its own tip down. Currently there is not an accepted standard for handicapped parking on public streets. The United States Access Board has a standard that is in the commenting stage that gives staff something to follow when looking at handicapped spaces in the right-of-way. The proposed Accessibility Guidelines state that for every 50 Parking spaces around a city block there should be at a minimum of 2 handicapped accessible parking spaces. In this case there are a total of 48 parking spaces in the city block, College, Pine, Main, to St Paul Street. Of the 48 spaces there are 3 handicapped spaces. Staff conducted a parking survey to see what the usage of the space was. The parking survey found that the handicapped space was used about 42% of the time during the work day, 8:00 am to 4:30 PM.

### Conclusions:

Applying the proposed Access Board rules would only require one to two handicapped spaces on this city block. This is a minimum standard; it does not say you can't provide more



handicapped spaces. The 42% occupancy rate shows that the space is used an adequate percent of the time to keep the parking space at its current location.

**Recommendations:**

Staff does not support the removal this space because the next nearest handicapped space is a block away from the other handicapped spaces. This space will give the handicapped equal access to the businesses on this block.

Location: 125 College Street

Date/Time	Space Filled: Y/N	Note: License Plate Number
12/6/2011 11:30 AM	Yes	FEW 278 Vermont Plate
12/6/2011 12:30 PM	No	
12/6/2011 02:30 PM	No	Car was double parked with the adjacent space
12/6/2011 03:30 PM	Yes	BRK 293 Vermont plate
12/7/2011 10:00 AM	No	All spaces were empty in the block
12/7/2011 11:00 AM	No	
12/7/2011 12:30 PM	Yes	DPX 933 Vermont Plate
12/7/2011 2;30 PM	No	
12/7/2011 04:30 PM	No	
12/8/2011 12:30 PM	Yes	4786 Vermont plate
12/8/2011 01:30 PM	Yes	4786 Vermont plate
12/9/2011 08:00 AM	No	All spaces empty

# MEMORANDUM

**To:** Joel Fleming-Burlington Public Works  
**From:** Barbara Sweeney  
**Subject:** Handicapped Space for Meter Space  
**Date:** October 13, 2011

I manage the 115, 119, and 125 College Street buildings and I would like to request that the current handicap sign located in front of 125 College Street be removed and a parking meter put in its place. The handicap sign was put in place for Richard Feeley who had one leg and who owned and worked in the building for many years but has not been affiliated with the building now for five years. The space is always empty and my tenants in the building (Daily News, Vintage Jewelers, Marilyns, and Saignon Bistro) have asked that a meter be put in its place for customer convenience to their establishments as parking is difficult to find in this area.

Please feel free to email me at [barb@simplicitypropertymanagement.com](mailto:barb@simplicitypropertymanagement.com) or call me at 802-861-6468 if you need anything further or have questions.



Pine Street

College Street

St Paul Street

Main Street

125

Total On City Block: 48 Spaces  
Total Handicapped: 3 Spaces





The logo of the United States Access Board is a large, light blue five-pointed star. Inside the star, there are stylized red and white stripes, reminiscent of the American flag. The words "UNITED STATES" are arched across the top of the star, and "ACCESS BOARD" is arched across the bottom. The text is in a bold, sans-serif font.

# **Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way**

July 26, 2011

**UNITED STATES ACCESS BOARD**  
A FEDERAL AGENCY COMMITTED TO ACCESSIBLE DESIGN

**R214 On-Street Parking Spaces.** Where on-street parking is provided on the block perimeter and the parking is marked or metered, accessible parking spaces complying with R309 shall be provided in accordance with Table R214. Where parking pay stations are provided and the parking is not marked, each 6.1 m (20.0 ft) of block perimeter where parking is permitted shall be counted as one parking space.

**Table R214 On-Street Parking Spaces**

<b>Total Number of Marked or Metered Parking Spaces on the Block Perimeter</b>	<b>Minimum Required Number of Accessible Parking Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 and over	4 percent of total

**Advisory R214 On-Street Parking Spaces.** The MUTCD contains provisions for marking on-street parking spaces (see section 3B.19). Metered parking includes parking metered by parking pay stations. Where parking on part of the block perimeter is altered, the minimum number of accessible parking spaces required is based on the total number of marked or metered parking spaces on the block perimeter.

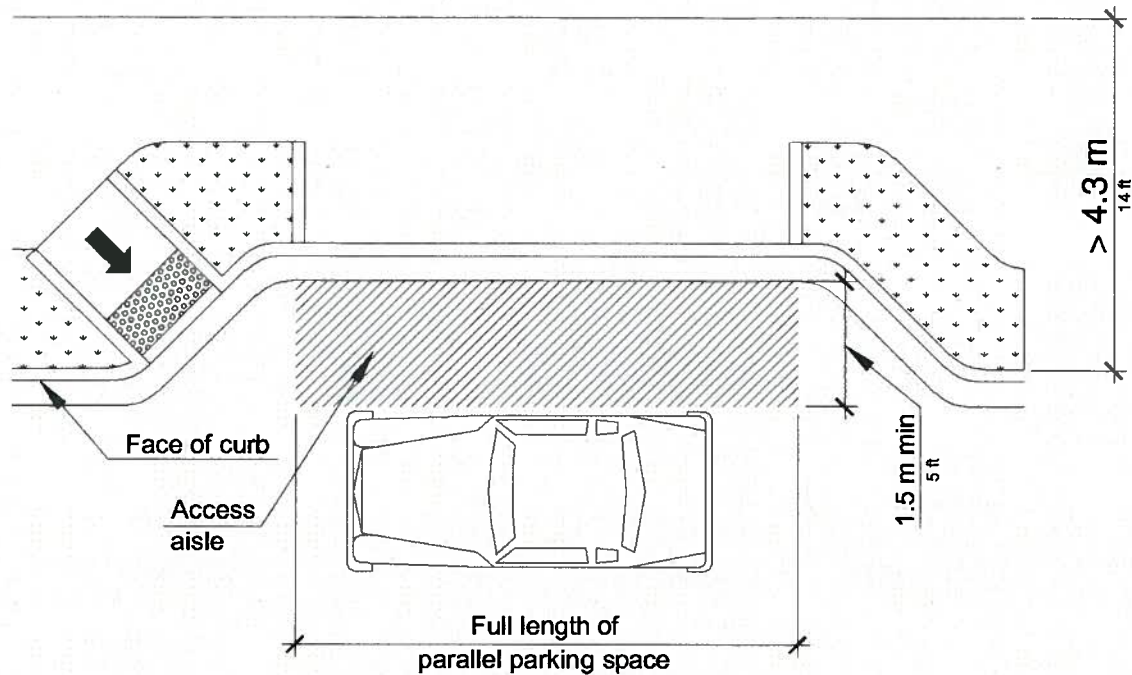
**R215 Passenger Loading Zones.** Where passenger loading zones other than transit stops are provided, at least one accessible passenger loading zone complying with R310 shall be provided for each 30 m (100.0 ft) of continuous loading zone space or fraction thereof.

**R216 Stairways and Escalators.** Where provided on pedestrian circulation paths, stairways shall comply with R408 and escalators shall comply with section 810.9 of Appendix D to 36 CFR part 1191. Stairways and escalators shall not be part of a pedestrian access route.

**R217 Handrails.** Where provided on pedestrian circulation paths, handrails shall comply with R409.

**R218 Doors, Doorways, and Gates.** Where provided at pedestrian facilities, doors, doorways, and gates shall comply with section 404 of Appendix D to 36 CFR part 1191.

**Advisory R218 Doors, Doorways, and Gates.** Enclosed transit shelters are an example of pedestrian facilities where doors and doorways are provided.



**Figure R309.2.1**  
**Wide Sidewalks**

**R309.2.1.1 Alterations.** In alterations where the street or sidewalk adjacent to the parking spaces is not altered, an access aisle shall not be required provided the parking spaces are located at the end of the block face.

**R309.2.2 Narrow Sidewalks.** An access aisle is not required where the width of the adjacent sidewalk or the available right-of-way is less than or equal to 4.3 m (14.0 ft). When an access aisle is not provided, the parking spaces shall be located at the end of the block face.

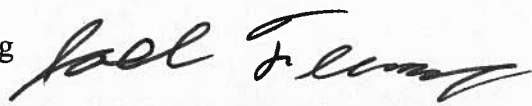
**Advisory R309.2.2 Narrow Sidewalks.** Vehicle lifts or ramps can be deployed on a 2.4 m (8.0 ft) sidewalk if there are no obstructions.



## MEMORANDUM

January 18, 2012

**TO:** Public Works Commission

**FROM:** Joel Fleming 

**RE:** 4-way stop control on Ferguson Avenue and Foster Street and Lyman Avenue and Foster Street

---

### Background:

In August Staff received a petition to make the intersection of Foster Street and Ferguson Avenue a 4-way stop. The petition had 40 signatures which included households in the neighborhood from Flynn Avenue, Shelburne Street, Home Avenue and Bright Street. Staff talked Katherine Riegleman, the resident who sent the petition in, and she offered to put the letter out to the neighborhood on Front Porch Forum. Staff also hand delivered the letter dated, November 29, 2011, to all of the residents with numbered houses on the map.

### Observations:

With the understanding that this particular intersections control measures need to be appropriate for the safety of this particular intersection, it also needs to fit within a broader context of the neighborhood and the city.

Staff took a look at the existing stop control for this neighborhood and determined that this neighborhood has four four way intersections.

- ▲ Two(2) of the intersections are 4-way stop controlled intersections
- ▲ and Two(2) of the intersections have side minor street stop control.(2 way stop control)

As part of our process to evaluate the traffic request, we sought input from the neighborhood. Staff sent a letter to residents seeking their input, see the attached letter dated November 29, 2011. In response to our letter we received:

- ▲ eight responses from residents

- ▲ six of which expressed support for the 4-way stop and making all of the intersections in the neighborhood 4-way stop controlled.

Staff conducted a warrant analysis for the intersection of Fergusson Avenue and Foster Street and determined that:

- ▲ the intersection did not meet minimum entering intersection volume requirements.
- ▲ the intersection did not have a documented history of being accident prone, 5 or more accidents over a two year period. In fact there was only 1 documented accident that had been reported for the last 2 years.
- ▲ The intersection does not have any sight distance limitations.
- ▲ The intersections, intersecting street volumes are not balanced. During peak-hour period Foster Street had about 3-times more traffic than both Ferguson and Lyman Avenue.
- ▲ One warrant requirement that was met and was relevant states the following “in intersections of two residential collector streets of similar design and operating characteristics where multi-way stop control would improve the operational characteristics of the intersection”

#### Conclusion:

Examining this particular intersection in isolation one would draw from the data gathered that the intersection does not require stop control at all approaches. However looking at stop control for this intersection in the context of other intersections with similar design characteristics, within the same neighborhood who do have multi-way stop control. It makes operational sense to propose that all intersections within the foster neighborhood to be 4 way stop controlled. Thus eliminating any confusion as to who would be properly assigned the right of way. By creating clarity, we reduce the risk of an accident caused by a confusing circumstance.

#### Recommendation:

Staff would recommend that the two intersections, **Ferguson Avenue at Foster Street and Lyman Avenue at Foster Street** become 4-way stop controlled. Making the stop control in the neighborhood predictable, consistent, resulting improving traffic safety within the neighborhood.









**CITY OF BURLINGTON  
DEPARTMENT OF PUBLIC WORKS**

OFFICE OF PLANNING  
645 PINE STREET, SUITE A  
BURLINGTON, VT 05402  
802.863.9094 P  
[WWW.DPW.CI.BURLINGTON.VT.US](http://WWW.DPW.CI.BURLINGTON.VT.US)

**JOEL FLEMING, E.I.T.**  
*PUBLIC WORKS ENGINEER*

---

November 29, 2011

Dear Lyman Avenue and Foster Street Residents:

Public Works would like your thoughts on the addition of stop signs on Foster Street at Lyman Avenue. I'd appreciate your feedback by Wednesday, December 9th, 2011. Please contact me at 865-5832 or [jfleming@ci.burlington.vt.us](mailto:jfleming@ci.burlington.vt.us).

Thanks for your time,

Joel Fleming, EIT  
Department of Public Works  
865-85832  
[jfleming@ci.burlington.vt.us](mailto:jfleming@ci.burlington.vt.us)



## CITY OF BURLINGTON - DEPARTMENT OF PUBLIC WORKS

**SERVICE REQUEST**

Use this form to request services from the Department of Public Works.

Today is: 8/2/2011

Entered By Helen Plumley Request # 12301**Name and Address**

Reminder 10/31/2011

First Name Katherine Last Name Riegelman Date 8/2/2011  
Street Number 46 Street Address Ferguson Avenue  
Phone Number 233-2365 e-mail katie@queencityvt.com

**Request**

Location of Request Ferguson Avenue/Foster Street  
Location Street Number Location Street Ferguson Avenue/Foster Street

Please describe the request.  
Use additional space on back of form, if necessary

SR #12301  
See letter dated 8/01/11 and supporting comments, names of addresses of neighbors in support of the installation of a 4-way Stop at the intersection of Ferguson Avenue and Foster Street.

**Resolution**

For Office use only

Referred to Engineering Dept Staff Assigned Joel Fleming  
Date Staff Contact 8/2/2011

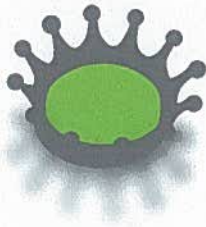
Staff Assessment

**Customer Service**Follow Up Date 8/17/2011

Comments

**Status**

Status Investigation Close out date 8/2/2011  
Follow-up Pending



**QUEEN CITY**  
R E A L E S T A T E

RECEIVED

AUG 02 2011

BURLINGTON PUBLIC  
WORKS

August 1, 2011

Burlington DPW  
645 Pine Street  
Burlington, VT 05401

Re: Installation of 4 way stop at Ferguson & Foster

Hello-

I am writing on behalf of my neighbors and I in support of the installation of a 4 way stop at the intersection of Ferguson Avenue and Foster Street in Burlington.

We have noticed an increase in the traffic along both streets at all times of day. Many people cut through to go to work, to day care and to avoid the traffic lights at Flynn and Pine. Though there are stop signs at Foster Street, many people barely stop and just roll through the intersection.

We are fortunate to have Fire Station 5 on Ferguson Avenue and they have indicated their support of the 4 way stop. You should receive a similar request from them.

We all feel that this is an important step to increase safety for the fireman, people and pets in this wonderful neighborhood.

As the spokesperson for the neighborhood I will be glad to answer any questions and to be the contact for this request.

Enclosed please find a petition with the names and addresses of residents who support the 4 way stop. We gathered signatures electronically and through Front Porch Forum.

Thank you for your attention to this matter.

Sincerely,

Katherine Riegelman  
46 Ferguson Avenue  
Burlington, VT 05401  
802-233-2365  
katie@queencityvt.com

p.o. box 4461, burlington, vt 05406 \* 802 233 2365



**Katherine Riegelman**  
Real Estate Broker



**QUEEN CITY**  
REAL ESTATE

P.O. Box 4461  
Burlington, VT 05406  
(802) 233-2365  
[katie@queencityvt.com](mailto:katie@queencityvt.com)  
[www.queencityvt.com](http://www.queencityvt.com)  
[www.vtlakerentals.com](http://www.vtlakerentals.com)



**PETITION TO INSTALL A 4 WAY STOP AT THE INTERSECTION OF  
FERGUSON AND FOSTER STREETS IN BURLINGTON VT**

RECEIVED

AUG 02 2011

BURLINGTON PUBLIC  
WORKS

I support the installation of a 4 way stop at the intersection of Ferguson and Foster.

Jeffrey Severson  
136 Lyman Avenue  
Burlington, VT 05401

Support stop sign at foster :)  
Petra Smejkal [petrasmejkal@mac.com]

✓44 Ferguson

support for 4 way stop sign corner Ferguson/Foster  
Please add Karine Poulin, 55 Lyman Ave, to your petition.  
It should also be a 4 way stop at the corner of Lyman and Foster for that matter...

Please add my name to the request for the 4 way stop at Ferguson &  
Foster.  
William Loney  
915 Pine St.  
Burlington

Hi Katie,  
Please add my name to this list!  
Christa Carse  
115 Lyman Ave  
Burlington

You may have a legitimate answer there, but overall, there are way too many four-way stops in Burlington and the vicinity. Everyone gets punished by four-way stops for the careless, and lawless drivers we have around.

Hi Katie,  
We were shocked and saddened about Stella, too...It's just weird that there's not a stop sign at this intersection. Yes, please add our names to the list of supporters: Celia Cuddy, JB Barna, and Lucy Kraus-Cuddy, 124 Lyman Ave.

Yes, I support your petition for the corner of Foster and Ferguson. ALSO, as we know there was a recent fatal (to human) accident at Flynn and Pine and we need better signage there plus to have that huge blue spruce cut down that is a hazard to visibility.

Thanks. Spencer  
Susan Spencer Smith

Sure, Katie, you would have my support. But, I think the criteria is more objective in that neighbor support on both streets have to sign the petition....Bill K (21 Alder lane)

Hi Katie,

Please add me to your petition for the 4 way STOP at Ferguson and Foster.

Barbara Collins 166 Ferguson Ave.

I have observed a great increase in the traffic on Ferguson in the past two years. In the morning those heading to Pine St. who don't want to wait at the stoplight at the corner of Shelburne Rd. and Flynn Ave. are now ZOOMING down Ferguson!!

Thank you for your effort. I have been there. I pressed the City for 4 years to get the Safe Crossing signal installed at the top of Flynn Ave. after collecting signatures door to door, as well as the signs that ask truckers not to use their engine brakes. We do have to work hard to keep the neighborhood safe and quiet.

**Yes! We need this four way stop.**

**Thanks for pushing this issue.**

**Chuck Catlett**

**27 Ferguson Avenue**

Hi Katie,

Thanks for doing this. I think it's a great idea...

Dusty & Melinda Haselton

20 1/2 Ferguson Ave.

HI KATIE,

THANKS FOR TAKING THE LEAD ON THIS. MY WIFE MELINDA AND I SUPPORT INSTALLING A FOUR WAY STOP AT THE INTERSECTION OF FOSTER AVE. AND FERGUSON AVE.

DUSTY AND MELINDA HASELTON

20.5 FERGUSON AVE.

BURLINGTON, VT 05401

Hi Kate,

I also support a 4-way stop at Ferguson and Foster streets. It's strange that there's not one there already, and it is confusing to drivers, as well as dangerous. Thanks for taking this initiative.

Susan Essex Luce

57 Morse Place

I support the 4 way stop intersection at Ferguson and Foster Streets for traffic safety reasons.

Best,

Alana Lowry

76 Morse Place

Hi Katie!

Count me in as support for the 4 way stop sign. I think it's a good idea. Maybe it will keep people from taking speedy short cuts through our neighborhood as well.

I live at 22 Morse Place.

Marcia Blanco

I support the 4-way stop at Ferguson and Flynn.  
Karen Spach  
40 Batchelder St  
Burlington, VT 05401  
thanks!

I support installing a 4-way stop at Ferguson & Foster Sts.

--

Marcia Mason  
Flynn Ave. Housing Co-op  
288 Flynn Ave., #1  
Burlington, VT 05401

Hi Katie,  
We support the petition.  
Kat and Jeremy O'Neill  
✓ 16 Ferguson Ave

Put me down!  
Ursula Jones  
149 Lyman Ave  
Burlington

Hi Katie,  
I support the idea of placing stop signs at the Foster / Ferguson Street intersection. My only concern was for the firemen, but if they also support this idea, as you wrote, then I think it will be an improvement to our neighborhood.  
Regards,  
✓ Gillian Bell  
55 Foster Street  
Burlington VT 05401

*Support for the stop sign*  
*Susan Comerford*  
*140 Wells Street*  
*Burlington*

Dear Katie,

I'm writing in support of the request that the DPW install a 4 way stop intersection at Ferguson and Foster Streets.

I also believe that this will make all traffic slow down, look, and proceed carefully in our neighborhood.

Anthe Demeter Athas  
495 Shelburne Road  
Burlington



I support a 4-way stop at Ferguson and Foster Streets.

Jan Lea Bertrand

130 Foster Street, Burlington VT

Hi Katie,

Add me to the list. 38 Ferguson if you didn't know.

Margo Trotier

Katie,

Thank you for taking the initiative to generate something positive out of the tragic loss of Stella. The Esparza Bloch crew are friends of ours and Stella was our pug's best friend. My husband got into an accident at that very intersection almost 10 years ago with my then infant daughter. Thank God neither of them were hurt, but the car was totaled and we were so very lucky. Our family is in full support of a 4 way stop at the corner of Ferguson and Foster. I hope it goes through.

Melissa McConnell

135 Richardson street

Burlington, VT 05401

865-4953

Hi Katie,

I support your request for a stop sign at Ferguson and Foster.

Drivers should be going more slowly than the are.

Marylen Grigas

317 Flynn Ave

Burlington, VT 05401

I fully support this idea. As one of the few intersections that does NOT have a 4way stop, it is confusing to the average driver. Consistency will definitely reduce future liability for us all. I've had several close calls there myself.

Brendan Devitt

149 Lyman Ave

Burlington, VT 05401

I support the 4-way stop at Ferguson and Foster Streets.

Holly Godfrey

288 Flynn Ave #27

Gwendolyn Causer, 111 Lyman Ave.

I support a 4-way stop sign at the corner of Ferguson and Foster. I bike through that intersection regularly with my family and find the traffic speed quite high. It's also difficult to know if cars are going to stop or not since there's only a 2-way stop.

I support the installation of a 4 way stop at Ferguson and Foster, assuming that Fire Station vehicles going out on responses can ignore this sign as they see fit.

Roland Luxenberg

255 Flynn Avenue

Burlington, VT 05401

I am writing to support the petition to install a 4-way stop at Ferguson and Foster Streets in the South End. I walk frequently in this area and am in favor of anything that would require traffic to slow down. I have often witnessed cars traveling much too fast in the neighborhood.

Veronica Richel

111 Richardson Street

I SUPPORT THE INSTALLATION OF A 4 WAY STOP AT THE INTERSECTION OF FERGUSON AND  
FOSTER STREETS IN BURLINGTON, VT

KATHERINE RIEGELMAN

46 FERGUSON AVENUE



Date: 11/3/11  
Counter: Joel Fleming

AM

PM

Major: <u>Ferguson Ave</u>				Minor: <u>Foster St- Stop Controlled</u>				Pedestrians	Bikes
Time		Direction	Direction	Time		Direction	Direction		
Start	Stop	<u>East</u>	<u>West</u>	Start	Stop	<u>North</u>	<u>South</u>	All	All
4:01	4:15	1	6	4:01	4:15	6	11	0	0
4:16	4:30	1	6	4:16	4:30	7	11	4	1
4:31	4:45	1	9	4:31	4:45	4	18	3	2
4:46	5:00	3	8	4:46	5:00	14	19	6	2
5:01	5:15	1	5	5:01	5:15	9	35	6	0
5:16	5:30	1	12	5:16	5:30	5	16	1	1

Note: 15 minute time intervals

**Stop Sign Warrant**  
**MUTCD 2B.07 Multi-way Stop Application:**  
**Ferguson Avenue and Foster Street**

01. Multi-way stop control can be useful as a safety measure at intersections if certain traffic conditions exist. Safety concerns associated with multi-way stops include, pedestrians, bicyclists, and all road users expecting other road users to stop. Multi-way stop control is used where the volume of traffic on the intersecting roads is approximately equal.

02. The restrictions on the use of STOP signs described in Section 2B.04 also apply to Multi-way stop applications.

Guidance:

03. The decision to install multi-way stop control should be based on an engineering study.

04. The following criteria should be considered in the engineering study for a multi-way STOP sign installation:

A. Where the traffic control signals are justified, the multi-way stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.

**This intersection does not require a traffic light. --- Does not meet the warrant**

B. Five or more reported crashes in a 12-month period that are susceptible to correction by a multi-way stop installation. Such crashes include right-turn and left-turn collisions as well as right-angle collisions

**There was only one accident over the past two years --- Does not meet the warrant**

C. Minimum Volumes:

1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages 300 vehicles per hour for any 8 hours of an average day; and

**The Peak Hour traffic for all four legs of the intersection was 120 vehicles includes Pedestrians and bike traffic**  
**---Does not meet the warrant**

2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour; but

**---Does not meet the warrant**

3. if the 85<sup>th</sup>-percentile approach speed of the major -street exceeds 40 MPH, the minimum vehicular volume warrants are 70 percent of the volumes provided and Items 1 and 2.

**---Does not meet the warrant**

D. Where no single criterion is satisfied, but criteria B, C.1 and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this criterion.

**---Does not meet the warrant**

Option:

Other criteria that may be considered in an engineering study include:

A. The need to control left-turn conflicts;

**---Does not meet the warrant**

B. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;

**--- Does not meet the warrant**

C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop; and

**---Does not meet the warrant**

B. in intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve operational characteristics of the intersection.

**Traffic is much greater on Foster Street, which has stop control. Ferguson Avenue is not controlled and has a third of the traffic. The surrounding area does not have 4-way stops at the 4-way intersections.**

INCIDENT SEARCH  
Print Date/Time: 11/14/2011 12:19:36 PM

Incident Number	Call Date/Time	Incident Type	Officers	Dispositions	Review Type	Location
2010-00016102	07/07/2010 20:22:00	B219 Clements	Accident - City Report - 1	RBS - Reviewed by Supervisor	FERGUSON AVE / FOSTER ST,	
Burlington	07/08/2010 01:09:36	Accident	VT0040100			

Total Rows: 1

# Stop Sign Warrants

conflicting commands of two types of control devices are confusing. If traffic is required to stop when the operation of the stop-and-go signals is not warranted, the signals should be put on flashing operation with the red flashing light facing the traffic that must stop.

Where two main highways intersect, the STOP sign or signs should normally be posted on the minor street to stop the lesser flow of traffic. Traffic engineering studies, however, may justify a decision to install a STOP sign or signs on the major street, as at a three-way intersection where safety considerations may justify stopping the greater flow of traffic to permit a left-turning movement.

STOP signs may be used at selected railroad-highway grade crossings only after their need has been determined by a detailed traffic engineering study. Portable or part-time STOP signs shall not be used except for emergency purposes. Also, STOP signs should not be used for speed control.

## 2B-6 Multi-way Stop Signs

The "Multi-way Stop" installation is useful as a safety measure at some locations. It should ordinarily be used only where the volume of traffic on the intersecting roads is approximately equal. A traffic control signal is more satisfactory for an intersection with a heavy volume of traffic. Any of the following conditions may warrant a multi-way STOP sign installation:

1. Where traffic signals are warranted and urgently needed, the multi-way stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the signal installation.
2. An accident problem, as indicated by five or more reported accidents of a type susceptible of correction by a multi-way stop installation in a 12-month period. Such accidents include right and left turn collisions as well as right-angle collisions.
3. Minimum traffic volumes:
  - a) The total vehicular volume entering the intersection from all approaches must average at least 500 vehicles per hour for any 8 hours of an average day.
  - b) The combined vehicular and pedestrian volume from the minor street or highway must average at least 200 units per hour for the same 8 hours, with an average delay to minor street vehicular traffic of at least 30 seconds per vehicle during the maximum hour.
  - c) But when the 85-percentile approach speed of the major street traffic exceeds 40 miles per hour, the minimum vehicular volume warrant is 70 percent of the above requirements.

## 2B-9 Location of Stop Sign and Yield Sign

A STOP sign should be erected at the point where the vehicle is to stop or as near thereto as possible, and may be supplemented with a Stop line and/or the word STOP on the pavement. A YIELD sign should be erected in the same manner, at the point where the vehicle is to stop if necessary to yield the right-of-way. Where there is a marked crosswalk on the pavement, the sign should be erected approximately 4 feet in advance of the crosswalk line nearest to approaching traffic.

Where only one sign, STOP or YIELD, is used, it shall be on the right-hand side of the traffic lane to which it applies. An intersection where a wide throat exists on the signed approach, observance of the sign may be improved by the erection of an additional sign on the left side of the approach road, and by the use of a Stop line. Where two lanes of traffic are subject to the STOP sign, a second sign should be placed where it is visible to traffic in the inner lane.

## **Stop Sign Warrants**

At certain channelized intersections, the additional sign may be effectively placed on a channelizing island. In no instance shall one STOP or YIELD sign be mounted above another on the same posts.

Where two roads intersect at an acute angle, the STOP or YIELD sign should be positioned at an angle, or shielded, so that the message is out of view of traffic to which it does not apply.

In the event the visibility of a STOP sign or a YIELD sign at any location is restricted, the sign shall be located as specified, and a Stop Ahead sign or a Yield Ahead sign shall be erected in advance of the STOP or YIELD sign.



## Joel Fleming

---

**From:** Danielson, Amy <Amy.Danielson@state.vt.us>  
**Sent:** Wednesday, November 30, 2011 1:28 PM  
**To:** Joel Fleming  
**Subject:** Stop signs on Lyman Ave

Hello Joel,

I would like the city to add a stop sign at Pine St at Lyman Avenue, or at least a caution sign that it is a 2 way stop. I just bought my house on Lyman last spring and notice that if I travel down Lyman from Route 7, I would come to a 4 way stop sign at every street even when I arrived at Pine St (where there are no stop signs on Pine, just Lyman). There I would also expect a 4 way stop, and would almost proceed across Pine St. after stopping briefly, expecting the traffic on Pine to stop. The expectation of a 4 way stop where there is none is dangerous in my opinion. A family member and a friend also experienced the same expectation and feeling of danger in this situation.

I am less concerned about a stop sign at Foster and Lyman.  
Thank you.

Amy Danielson, MPH  
Adolescent & Families Services Specialist  
Alcohol and Drug Abuse Programs  
Vermont Department of Health  
108 Cherry St, P.O Box 70  
Burlington, Vermont 05402  
p: 802-651-1557  
f: 802-651-1573  
[amy.danielson@state.vt.us](mailto:amy.danielson@state.vt.us)

## Joel Fleming

---

**From:** Rachael M. Montesano <Rachael.Montesano@uvm.edu>  
**Sent:** Wednesday, November 30, 2011 9:02 PM  
**To:** Joel Fleming  
**Subject:** stop signs on Foster St at Lyman

Dear Joel,

Thank you very much for suggesting the additional stop signs for Foster at Lyman to go along with the new ones proposed on Ferguson. I am 100% in favor of the stop signs.

Sincerely,

Rachael Montesano  
53 Foster St.

## Joel Fleming

---

**From:** Merriam, Laura A <Laura.Merriam@uvm.edu>  
**Sent:** Thursday, December 01, 2011 1:30 PM  
**To:** Joel Fleming  
**Subject:** stop signs Foster/Lyman

Hi Joel-

Thanks for looking into the stop sign issue. My husband & I would be supportive of adding stop signs to the Foster St side of the Lyman/Foster intersection (and also in favor of adding other stop signs to make 4-way stops, such as Foster/Ferguson). The mismatch of 4-way vs 2 way stops in our neighborhood is pretty confusing and we've seen many accidents over the years because of the confusion.

Thanks again-

Laura Merriam  
Francis Benoit  
67 Lyman Ave

\*\*\*\*\*

Laura A. Merriam  
University of Vermont College of Medicine  
Department of Anatomy & Neurobiology  
D403 Given Building  
89 Beaumont Avenue  
Burlington, Vermont 05405  
phone (802)656-8044  
FAX (802)656-8704  
email: [Laura.Merriam@uvm.edu](mailto:Laura.Merriam@uvm.edu)

## Joel Fleming

---

**From:** christina reiter <cclawr@gmail.com>  
**Sent:** Wednesday, November 30, 2011 9:04 PM  
**To:** Joel Fleming  
**Subject:** Four-way stops

Dear Joel,

I cannot express adequately how happy I would be to have a 4-way stop sign at Lyman and Foster. If you wanted to add some speed bumps around the neighborhood, that would be much appreciated as well! There are commuters who weave their way through our neighborhood every day instead of staying on the main thoroughfares of Pine St. and Shelburne Rd. There are so many animals and small children in this neighborhood now, any steps you could take to calm the traffic here would be VERY welcome.

Thanks for your consideration,  
Christina Reiter  
61 Lyman Ave.

## Joel Fleming

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**From:** evzen@shore.net  
**Sent:** Tuesday, December 06, 2011 8:50 PM  
**To:** Joel Fleming

Dear M. Fleming

We are the owners of 55 Lyman Ave. We do not have much of an opinion about the stop sign on the intersection of Foster and Lyman. Whoever proposed it must have had a reason. But that problem is definitely minor compared to what is going on on the intersection of Lyman Ave and Pine st. That is a deadly intersection, even though nobody got killed there yet. That is just a matter of time though. On that intersection there are accidents often.

The problem with those accidents is that during every single one we witnessed (four so far during the short time we have lived here) the cars fly on or over the sidewalk. So while nobody gets usually injured in the cars, had somebody been standing or walking on the sidewalk -that would be it. There are lots of children walking to and from Champlain school every day. From what we observed the reason for the accidents is that people drive fairly fast down the hill from Home Ave and drivers coming on Lyman from the east (Shelburne Rd), trying to cross or enter Pine St., do not see them, because the view is obscured by a line of trees. A four way stop sign on that intersection would be one big step for humanity, and it is long overdue. It sure will slow the traffic on Pine, but that is a minor annoyance compared to what is going to happen there one day.

Evzen Holas  
Karine Poulin  
tel: 540 0726



## **Joel Fleming**

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**From:** D-rod <d.rod.usa@gmail.com>  
**Sent:** Friday, December 09, 2011 11:57 AM  
**To:** Joel Fleming  
**Subject:** Stop Signs at Foster Street & Lyman Avenue

Joel,

Sorry for the "11th hour" reply to your letter left at my home.

I am 100% in support of Stop signs at Foster Street & Lyman Avenue.  
People come flying down Foster Street and it's unsafe for children and pet walkers.

Sincerely,  
David A. Goyette  
20 Lyman Avenue  
Burlington, VT 05401

--

Laugh like a child, play like a dog, and dance like nobody is watching!



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STEVEN GOODKIND, P.E.  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

Date: January 10, 2012

## Memo

To: DPW Commission

From: Steven Goodkind

Subject: Proposed 2012 Street Reconstruction Paving List and  
Sidewalk Strategic Plan

The past year marked the completion of the first phase of the long term project to improve the condition of our streets. Although going forward our annual investment in the road system will be less than in the previous three years, it will be sufficient to continue the improvement trend and to maintain our streets at an acceptable level.

Attached is a memo from Erin Demers, project manager for the street capital program. In it she briefly describes what the program has accomplished followed by a draft list of recommended work for the coming year. Erin will give a presentation at the meeting that will contain more detail on the performance of this program.

As we have done in the past, we are presenting the paving list for the purpose of discussion only. Action to adopt the list or a modification of it will not be requested until the February meeting.

However, before we get too excited about the success of the paving program, we need to remember that our roads are only one part of the entire streetscape. As we move on with the next phase of the paving program, it is imperative that we start to set in motion the efforts that will enable us to tackle the next sorely needed piece of our right of way i.e. sidewalks.

Sidewalks share the same right of way as the streets but they are different in almost every other way. How we use them, the materials they are made of, how they deteriorate and how long they last require a whole new set of parameters in

**order to evaluate sidewalk performance and to then develop plans for improving and maintaining a system that meets our needs.**

**If past experience is any guide, once we have a plan (or plans), it may take many years to develop the political will to implement it. That being the case, there is no better time to start the process than now.**

**Attached is a memo from Nicole Losch, our transportation planner, which describes the work that DPW has done to prepare a Strategic Plan for our sidewalk system. The process of preparing this plan involved a comprehensive data gathering effort and the development of a methodology for analyzing the data and recommending approaches for addressing the system deficiencies. At the meeting we will give a presentation which will provide more information on the development of the strategic plan to date.**

**The department is seeking the commission's input and eventually your support for the effort to bring forward a capital plan for our sidewalk system in a manner similar to what was done with the paving program. It will not be easy and is unlikely to happen quickly, but with your support we are ready to proceed.**



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STEVEN GOODKIND, P.E.  
DIRECTOR OF PUBLIC WORKS  
CITY ENGINEER

*Date: January 10, 2012*

## Memo

*To: DPW Commission*

*From: Erin Demers, Public Works Engineer*

*Subject: 2012 Street Reconstruction Paving List & Update*

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In the fall of 2011, DPW completed the last year of an accelerated 3-year paving program for the City of Burlington. Approximately 30 miles of streets were paved in 3 years, elevating our average citywide pavement condition index (PCI) from 62 (poor to average) to 82 (Very good). As we prepare for next paving season we are in a good position (already having a great base condition of roadways) to continue reconstructing more Burlington streets.

In 2012, we are proposing a work plan that includes 17 street segments and over 3.5 miles of work. Attached is the DRAFT 2012 Street Reconstruction List for your review. Once approved we intend to prepare contract documents a winter 2012 bidding process. The actual work will not begin until the city's FY13 begins in July.

If you have any question on this DRAFT list of street reconstruction for next season or would like any more information about the Street Capital Program, please do not hesitate to contact me directly at [edemers@ci.burlington.vt.us](mailto:edemers@ci.burlington.vt.us) or 802-863-9094.

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## DRAFT 2012 STREET RECONSTRUCTION PROGRAM LIST

Location	From	To	Length (FT)	Width (Ft)	Area (Sq-Ft)
1 ADAMS ST	ST. PAUL ST	SO. UNION ST	1240	30	37200
2 CHESTNUT TERR	GLENWOOD	END	275	30	8250
3 COLLEGE ST	SOUTH UNION S' BATTERY ST		2100	35	73500
4 DALE RD	WOODLAWN	END	1450	30	43500
5 HARDY AVE	DERWAY	WESTWOOD	1400	30	42000
6 HOME AVE	PINEST	INDUSTRIAL AV	1200	30	36000
7 HUNGERFORD TERR PEARL		COLLEGE	590	30	17700
8 INSTITUTE RD	NORTH AVE	ROCK POINT RI	1060	32	33920
9 KILBURN	PINE ST	ST PAUL	460	40	18400
10 JANET CIRCLE	JAMES	JAMES	898	30	26940
11 LEDGE RD	SHELBURNE ST	S PROSPECT	1800	30	54000
12 MAIN ST 1	CHURCH ST	ST PAUL	265	50	13250
13 MAIN ST 2	WINOOSKI AVE	WILLARD ST	1300	50	65000
14 OVERLAKE PARK	CLIFF ST	END	1200	22	26400
15 PEARL ST	WINOOSKI AVE	S. PROSPECT	2788	45	125460
16 PEARL ST	WINOOSKI AVE	ST PAUL	830	45	37350
17 VINE ST	BRIERWOOD	SHORE	470	30	14100

FY'13 Paving Budget

\$1,150,000

19326 feet

3.7 miles

### EXTRA WORK & Spring 2012 carryover

\$100,000

Crack seal program for 2009 Streets

\$50,000

Drew Street reconstruction

\$10,000

Colchester Ave restriping

\$3,822

North Ave @ flynn school traffic calming

\$5,200

Starr Farm Rd - 2 rumble strips to be reconstructed





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# Memo

**Steven Goodkind, P.E.**  
*Director of Public Works  
City Engineer*

**Date:** January 9, 2012  
**To:** Public Works Commission  
**From:** Nicole Losch, Transportation Planner and Bicycle/Pedestrian Program Manager  
**Subject:** Sidewalk Strategic Plan – background, status, and moving forward

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## History

In 2008-2009, DPW staff developed a Sidewalk Strategic Plan (SSP). Prior to development of the Sidewalk Plan, funding was allocated evenly by Ward and improvements were compiled and scheduled in response to complaints. We did not have an inventory of our sidewalk network.

To improve our sidewalk program, our goals were:

1. Identify an acceptable condition for our sidewalks,
2. Lower the life cycle of our system by increasing the number of miles improved each year,
3. Use the most efficient methods for installation,
4. Coordinate projects with other right-of-way improvements to increase efficiency,
5. Utilize alternative funding sources to construct new sidewalk,
6. Move toward a more pro-active planning process,
7. Increase the commitment to curb and greenbelt restoration,
8. Meet American's with Disabilities Act (DAA) requirements, walkability goals, and current standards.

To develop the SSP, we recruited volunteers and inventoried our entire 150-mile sidewalk network; this information became our Sidewalk Deficiency Index. Our sidewalk inventory gave all deficiencies equal priority and included:

### Possible hazards & deficiencies:

*(only counts one per slab/5' section)*

- Vertical displacement across >50% sidewalk or >2" in height
- Horizontal displacement greater than 2% slope
- Drainage problem
- Surface deterioration or material inconsistency
- Surface spalling or cracking
- Obstruction (hydrant, utility pole or cabinet, light pole, signal pole, parking meter, bike rack, tree, sign, structure)

### ADA ramp requirements:

- Detectable warning
- Ramp slope < 8.33%
- Ramp > 4'x4'
- Ramp flares' slope < 10%
- Landing slope < 2%
- Landing > 4'x4'
- Ramp lip < ¼"

<b>Sidewalk System Inventory Results - 2009</b>	
City streets	88.6 miles
City sidewalks	150.2 miles
Missing sidewalks	27 miles
Sidewalk needed to meet Transportation Plan policy to have sidewalk on one side of every street and both sides of Complete Streets	4.5 miles

We also developed a system to identify the most-traveled pedestrian routes. Our Pedestrian Potential Index (PPI) assigns points to variables that affect pedestrian travel, such as the volume of traffic and the destinations along a route. The PPI values were discussed at several NPAs and through online surveys. The PPI includes:

Variable	Code	Description	Assigned Value
Type of Road	ART	Arterial	5
	COL	Collector	3
	LCL	Local	1
Major Pedestrian Generators	ASL	W/in 0.25 mi of retirement community, assisted living, or senior center	5
	CC	W/in 0.25 mi of library, community center, places of worship, etc	3
	WK	W/in 1 mile of employment center for > 200 employees	3
	SOC	W/in 0.25 mi of community medical & social services	1
School Zones	ES	W/in 0.25 mi of elementary school	5
	MHS	W/in 0.5 mi of middle or high school	3
	UNV	W/in 1 mi of college or university	3
Transit Routes	TRN	Roads that are transit routes	5
Commercial Areas	DD	W/in Designated Downtown	5
	NAC	W/in 0.25 mi of Neighborhood Activity Center	4
Paths, Trails, & Parks	PK	W/in 0.25 mi	3
No Sidewalks on Either Side	SIDE	City policy for at least one sidewalk on every street	5

The SSP prioritizes sidewalk improvements based on an equal weight of the Deficiency Index and Pedestrian Potential Index. The combined indexes give us a Sidewalk Condition Index, which allows us to identify and prioritize the sidewalks in the worst condition, in the most heavily traveled areas.

In addition to the infrastructure assessment, the SSP development process provided information that changed the programming of annual sidewalk funds to address indirect and direct sidewalk deficiencies. As a result, 10% of the budget is devoted to curb and greenbelt replacement/restoration (to help alleviate drainage, erosion, or splashing problems), 10% of the budget is devoted to sidewalk "patches" of small projects to address complaints or significant safety hazards, and 80% of the budget is devoted to long-run sidewalk repair.

## **Annual Work Plan**

### ***Initial Implementation***

In fiscal year 2010 the SSP was implemented. We developed a 5 year work plan that anticipated replacement of:

- 0.91 miles of sidewalk in different sections of three streets in FY10,
- 0.86 miles on five streets in FY11,
- 0.86 miles on seven streets in FY12,
- 0.92 miles on five streets in FY13, and
- 0.88 miles on 8 streets in FY14.

Our Sidewalk Condition Index (SCI) for the sections to be replaced ranged from 82 (worst condition) to 77 (better condition). The average SCI at the beginning of the program was 55.47; after the 5 year improvements, the SCI average was expected to be 49.64.

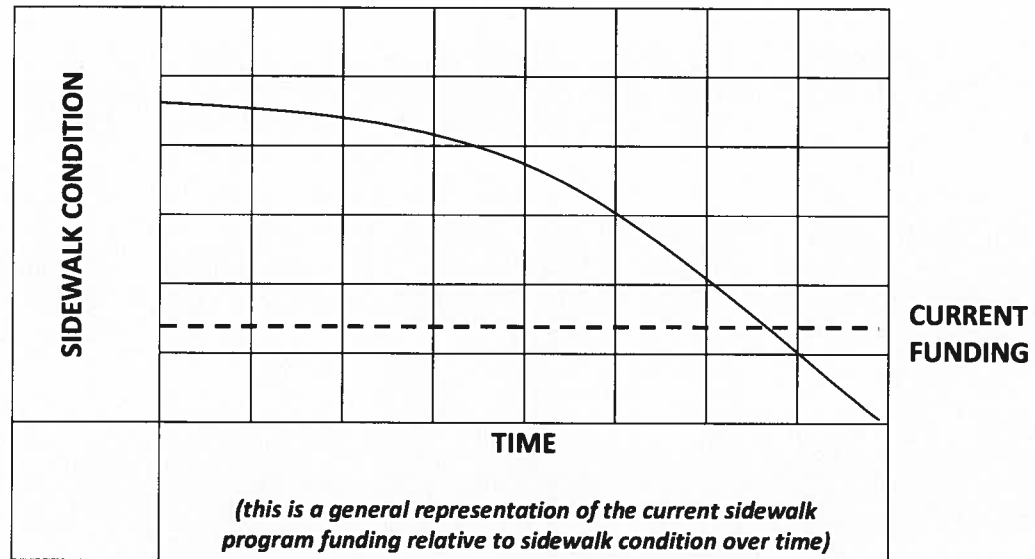
### ***Next Steps***

We have learned several things since implementing this plan in FY2010, and we have planned revisions to ensure more meaningful SCI rankings and ultimately develop a better Sidewalk Strategic Plan. On the positive side, we have learned that we are much more efficient with this plan's focus and priority to replace long sections (as mentioned above, 80% of the program is devoted to long runs). We had estimated completion of 0.86 miles in FY10 but were able to repair 2.29 miles instead.

The area in need of most improvement is our Deficiency Index. We have given equal priority to all sidewalk deficiencies described on Page 1. As we developed our Sidewalk Plan, we felt that a sidewalk with a spalled surface was no better than a sidewalk with a 2" heaved corner; for cost-effectiveness, efficiency, and safety it needed to be replaced in either situation. Each year, we inspect the highest-ranked sidewalks to ensure they are the "worst of the worst" in the most frequently traveled areas. However, as we have inspected the "worst of the worst" in the most frequently traveled areas – as ranked by our Sidewalk Condition Index – we have seen that many of those are not, in fact, the worst. We have had to re-prioritize sidewalks on our list in every year's work plan.

Therefore, we are planning a new sidewalk inventory for 2012. We are considering utilizing technology to assist our inventory. We will also be rewriting our Deficiency index and assigning values as we did for the Pedestrian Potential Index.

Our Sidewalk Plan is still addressing sidewalks with an SCI of 77 and higher; this includes approximately 3.97 miles of sidewalk. This leaves approximately 114.7 miles of sidewalk in need of repair, which – at our current rate of repair with the funding and resources available – will take nearly 50 years and over \$45 million dollars to complete. We estimate the lifecycle of our sidewalks to be anywhere from 30 to 50 years, depending on the location and materials. At this rate, we will be in need of significant sidewalk repair in perpetuity.



We are continuing to patch sidewalks in the worst condition, as reported through complaints from the public. In addition, we have focused a substantial amount of the program budget to Pearl Street between Winooski Avenue and Saint Paul Street, which was our one downtown sidewalk that clearly did not meet ADA requirements or general walkability initiatives; obstructions from signal poles and utility poles encroached in the sidewalk and reduced the width to less than 4' in some sections.

Pending completion of the Pearl Street sidewalk project, we will reassess the program budget and develop a work plan for the remainder of FY2012 into FY2012. Our improvement list currently includes:

1. Mansfield Ave, East, from McAuley to Colchester
2. Main St, South, from St. Paul to Church
3. Maple St, North, from South Willard to Harrington
4. St. Paul St, West, from Kilburn to Marble
5. St. Paul St, East, from Spruce to Adams
6. Pearl St, North, from George to Elmwood
7. St Paul St, East, from Howard to South Union
8. Pine St, East, from Maple to Kilburn
9. South Union St, West, from College to Main
10. Main St, North, from Church to South Winooski
11. Additional service requests for 37 streets, 279 slabs to replace



BURLINGTON PUBLIC WORKS COMMISSION  
645 Pine Street  
Minutes – December 21, 2011

**Commissioners present:** Robert Alberry, Nathan Lavery, Mark Porter, Marc Sherman & Maxwell Tracy  
**Commissioners absent:** Margaret Gundersen & Jared Wood

Commissioner Alberry called the meeting to order at 6:22 p.m.

**Item 1: AGENDA:** Commissioner Alberry asked if there were changes to the Agenda; no changes.

**Item 2: PUBLIC FORUM:** Commissioner Alberry invited members of the audience to come forward:

Greg Roy of Dale Road recently had an abnormally low water bill which he reported to the Customer Service representative at the Water Division. Mr. Roy came forward to publicly express his appreciation for the technician (Bruce) who responded to the service call, saying he was friendly, personable, professional and efficient.

**Item 3: REMOVAL OF PARKING ON THE NORTH SIDE OF ALFRED STREET**  
(Joel Fleming, Public Works Engineer and Director Steven Goodkind)

This item, brought up by Alfred Street residents, was discussed at the previous two Commission meetings. At tonight's meeting, Mr. Fleming reviewed options for the commissioners, should they feel compelled to make a decision to address the residents' concerns. Congestion due to numerous vehicles parked on the street (primarily, the north side) as well as snow accumulation, make it difficult for those on the south side of the street to enter and exit their driveways. Resident Kathleen Sullivan and dental practice owner Joe Kropf, DMD were present and answered the commissioners' questions.

Commissioner Sherman expressed concern about setting precedence by eliminating parking, and by being a complaint-driven organization instead of a proactive planning organization. He has been advocating for a city-wide parking policy; Commissioner Lavery agrees. Commissioner Porter supported an overnight parking ban on one side of the street.

**Commissioner Lavery**, in support of Commissioner Porter's recommendation, **moved** to implement on a temporary basis, a "No Overnight Parking" restriction on the north side of Alfred Street between Shelburne Street and Perrotta Place. Overnight parking is defined as midnight (12 a.m.) to six o'clock a.m. **Commissioner Sherman seconded, requesting that a representative of the Alfred Street residents return to the Commission at the February meeting** to report on whether or not the "No Overnight Parking 12:00 a.m. – 6:00 a.m." has improved the situation. Unanimous approval.

**Item 4: REMOVE PARKING ON THE EAST SIDE OF PINE STREET NORTH OF LOCUST STREET** (Joel Fleming, Public Works Engineer)

In response to a resident's request to move a "No Parking" sign on Pine Street two spaces north of the Locust Street intersection, staff proposes removing two parking spaces Pine Street to improve sight

distance for drivers exiting Locust Street. **Commissioner Porter moved** to accept staff's recommendation; Commissioner Tracy seconded. Unanimous approval.

**Item 5: ADDITION OF METERED PARKING ON THE NORTH SIDE OF MAIN STREET JUST WEST OF SOUTH WILLARD STREET** (Joel Fleming, Public Works Engineer)

As per the Commission's request for staff to examine the north side of Main Street just west of South Willard, staff determined that four (4) parking spaces could be added without compromising the safety of the intersection. **Commissioner Lavery moved** to accept staff recommendation to adopt four, 10-hour meter spaces on the north side of Main Street just west of South Willard Street. Commissioner Tracy seconded. Unanimous approval.

**DPW staff agreed to look into the possibility that the turn pocket on Main Street on the west side of this intersection is too short, and/or whether or not current parking spaces on the south side of Main Street west of this intersection, in conjunction with the turn pocket, inhibit the flow of eastbound traffic.**

**Item 6. MORE MOTORCYCLE PARKING IN THE DOWNTOWN** (Joel Fleming, Public Works Engineer)

No discussion. **Commissioner Sherman moved** to accept staff's recommendation to adopt motorcycle parking on lower Church Street and on St. Paul Street in the prohibited parking area. Commissioner Lavery seconded. Unanimous approval.

**Item 7. REMOVAL OF PARKING ON BROOKES AVENUE ACROSS FROM EASTERN MOST BUMP-OUT** (Joel Fleming, Public Works Engineer)

DPW staff received this item as a request a couple of months ago. Joel sent a letter to Brookes Avenue residents east of Williams Street soliciting their opinions. Three respondents agreed with removing the parking; two respondents asked that the bump-outs be removed. Staff recommends that parking be eliminated 20' east and west of the bump-out because of congestion on the street in the bump-out area caused by parked vehicles and snow accumulation. **Commissioner Porter moved** to accept staff's recommendation to remove parking 20' on either side of the eastern most bump-out. Commissioner Lavery seconded. Unanimous approval. It was agreed that if there was another traffic calming request for this site, the request be brought before the Commission.

**Item 8: ORCHARD TERRACE PARKING** (Joel Fleming, Public Works Engineer)

This item was previously brought before the Commission at the July 2011 meeting, resulting in the commissioners' approval of the addition of one parking space. However, staff learned that with the addition of that parking space, emergency vehicles had insufficient navigation room when turning onto Orchard Terrace.

Staff's new recommendation is to move the "No Parking Here to Corner" sign back about 37' from the corner (to its previous location). As per Commissioner Sherman's request, **Mr. Fleming and/or Director Goodkind will contact the fire chief to ensure that he is in agreement with the change.**

**Commissioner Sherman moved** to accept staff's recommendation to move the "No Parking Here to Corner" sign back to its previous location 37' from the corner, as long as the Burlington Fire Department concurs. Commissioner Porter seconded. Unanimous approval.

Commissioner Sherman advocated for a consistent parking plan to address, among other issues, inconsistencies in paid and free parking spaces in the vicinity of street corners and crosswalks.

**Commissioner Lavery asked Mr. Fleming** to put together a layout of standard steps that should be followed when a resident submits a parking-related request (e.g., have the neighbors been contacted? Have the local businesses been contacted?). Mr. Fleming will bring this document to the next meeting.

#### **Item 9: PARKING SPACES REMOVED IN 2011**

(Joel Fleming, Public Works Engineer and Director Steven Goodkind)

(See packet for December 21, 2011 Memorandum) Overall, 33 parking spaces city-wide were lost. Discussion ensued about the need for an additional parking structure downtown (the parking garage attached to the mall was built in 1978 and is expected to last about 50 years). In addition to providing more spaces, it will eliminate the need to drive around town looking for a parking space and decrease pollution caused by the looping. Efforts being promoted/explored by the city and county: Encouraging bus ridership; creating a park and ride in the south end; developing more bicycle parking/facilities around businesses, etc.

#### **Item 10: TRAFFIC LIGHT AND PEDESTRIAN DESIGN/TIMING**

(Director Steven Goodkind and Traffic Signal Technician Dave Garen)

Director Goodkind and Mr. Garen provided an informational talk and presentation on past, present and future technology and considerations for smooth and safe pedestrian and vehicle flow. Handouts entitled, "A Plan for Making Downtown Traffic Signals More Pedestrian Friendly," prepared by Dave Garen on June 10, 1996, were distributed. The information in this handout is current except for the cycle length during the hours of 10 a.m. – 2 p.m. (now 10 – 3) and 12-4 Saturdays and Sundays (cycle length is 70 seconds).

Commissioner Tracy will follow up with Director Goodkind on the proposed changes to the Archibald Street/North Winooski Avenue intersection (changing the signal and crossing distance).

#### **Item 11: UPDATE ON PERFORMANCE REPORT** (Director Steven Goodkind)

Director Goodkind and Commissioners Porter and Lavery have been working on the report. Director Goodkind hopes to prepare a final draft in the next couple of weeks, meet once more with the commissioners to get their approval and then begin planning the next phase of this evolving document (determine what information is useful for the Commission, for the public, etc.). Director Goodkind will give the final draft to Commissioners Porter and Lavery to distribute as they wish.

#### **Item 12: MINUTES OF 11/16/11**

Commissioner Tracy moved to accept the Minutes as recorded; Commissioner Lavery seconded. Unanimous approval.

**Item 13: CHAIR'S REPORT:** No report.

**Item 14: DIRECTOR'S REPORT** (Director Steven Goodkind)

- Preparing FY 2013 budgets.
- New auditor this year; more preparation is required by DPW staff for the audit.
- Hopes to have the new snowfighting plan in the next couple of days (methods used, towing areas). Once finalized, the pamphlet will be posted on the Web site and distributed widely.
  - o A new additive is being used with the salt this year for sidewalks (dirty brownish/purple color, a waste product of rum distillation); seems to work about as well as last year's formula. The formula change is in response to complaints by dog owners claiming their dogs' paws were irritated by the additive used in last year's salt mixture.
  - o Snow hauling was greatly decreased last year; will use the improved method again this year by using sidewalk plows and snowblowers to clear the edge of streets, blowing it into a taller pile on the side rather than hauling the snow to another site (saved time and money). In the downtown area blowers were used to clear out areas around meters and from sidewalks. Purchased two new blowers for DPW's newest tractors (designed to clear streets and have greater capacity to blow the snow higher and farther).
- Loading zones downtown: Director Goodkind and staff will be looking at the loading zone parking universal loading zone times/signage (effective 8 – 5) so drivers may use those spaces after those hours for parking.
- DPW staff has been reviewing "No Parking Here to Corner." The ordinance says it shall be 50' for the "no parking here to corner" signs, or, the Commission may establish something different. It is inconsistent city-wide. In most cases the "No Parking Here to Corner" signs were placed by staff without prior consent from the Commission.
- Staff are eliminating one parking space at the corner of South Champlain Street heading north at the Main Street intersection, due to the hazardous condition it presents (drivers have to pull out into Main Street traffic in order to see oncoming traffic).
- Prompted by Commissioner Sherman's questions about the current Inspection Services process, Director Goodkind reported that he and staff have been looking at the possibility of streamlining some aspects of Inspection Services (e.g., are all current inspections really necessary; is the current level of review prior to issuing permits necessary; are there some permits currently being issued which will be deemed not necessary in the future; is a remote permitting process possible, requiring DPW to accept credit card payments; possible expansion of staff, whether another inspector or administrative personnel; etc.). Commissioner Sherman has "...had an overwhelmingly positive experience..." in his frequent visits to Inspection Services this past year.

**Item 15: COMMISSIONERS' COMMUNICATIONS**

- Commissioner Porter: Could we make a rule to put a STOP sign where there is a "stop" (e.g., at the top of a street)? Is it financially feasible? Director Goodkind said that the Commission could decide to do this, as there is no Manual on Uniform Traffic Control Devices (MUTCD) requirement for it, though there haven't been many requests recently.

Assistant Director Norman Baldwin explained some of the nuances around the city accepting funding from another source. For example, the State of Vermont provided funds to repave Willard Street. Some of the side streets off Willard did not meet MUTCD standards so the State made changes to bring those intersections up to code (e.g., installed STOP signs). The reason that all intersections do not currently have STOP signs is that they may not be warranted (warranted



only if there is limited/restricted site distance). Producing, placing and maintaining the signs 24/7 may require staffing that the city may not be able to provide. An additional consideration for placing STOP signs at all corners may result in loss of parking spaces in the vicinity of the corners.

- Commissioner Sherman: Expressed concern about the lack of a STOP sign at the top of Buell Street where it intersects with Willard Street (limited site distance turning onto Willard Street). Further, he asked if Director Goodkind could ask staff to make a list of all street corners that lack STOP signs and submit the list to the Commission for approval. Director Goodkind said that he would be glad to oblige once proper staffing and time allows him to do so. Assistant Director Baldwin added that each neighborhood needs to be considered individually as to whether a STOP sign is warranted; whether there is limited parking in the neighborhood, and if so, would placing a STOP sign at the corner, which would require eliminating parking spaces, be in the best interest of that neighborhood; does each street design lend itself to a blanket standard, etc.
- Commissioner Porter: Asked if Mr. Fleming would take another look at 295 Maple Street (behind Edmunds) and bring it up at next month's meeting (this item was discussed at a previous meeting). Commissioner Porter looked at the site and feels there is not enough room for cars to pull out of the driveway. Mr. Fleming will look at it next week.
- Commissioner Porter: Both Brookes Avenue street signs have been stolen again.
- Commissioner Porter on behalf of Commissioner Wood: The illuminated "no turn on red" on Winooski Avenue northbound at the Pearl Street intersection has not been functioning for some time. Mr. Garen reported that the illuminated sign was disconnected for the State road construction program last summer and has been replaced with a sign. Mr. Garen will be replacing the incorrect signage with a "No Turn on Red" sign.
- Commissioner Tracy: Requests an update on the paving projects. Director Goodkind will ask Erin Demers, DPW Engineer, to finalize the report by next month's meeting. Also, on behalf of Commissioner Wood: Why was the fog line not painted on Route 7 between the rotary and the South Burlington town line after the State's paving project was completed? Director Goodkind will look into this.

**Item 16: COMMITTEE REPORTS:** No reports.

**Item 17: POLICY UPDATE:** No policy updates.

**Item 18: ADJOURNMENT:** 9:00 p.m.: Commissioner Sherman moved to adjourn; Commissioner Porter seconded. Unanimous approval.