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3 **Resolution Relating to**
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RESOLUTION

Councilors Siegel,
Sponsor(s): Tracy, Brennan, as
amended by Councilor DeceHes
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

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6 CITY ATTORNEY CONSTITUTIONAL ANALYSIS OF
7 NO TRESPASS ORDINANCE FOR CHURCH STREET MARKETPLACE
8 JUNE 12, 2012

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13 **CITY OF BURLINGTON**

14 In the year Two Thousand Thirteen.....
15 Resolved by the City Council of the City of Burlington, as follows:

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17 That WHEREAS, the City Attorney’s Office provided the City Council with a constitutional analysis
18 memorandum on June 12, 2012 regarding the constitutionality of a no trespass ordinance for the Church
19 Street Marketplace; and

20 WHEREAS, upon review and discussion of the City Attorney’s constitutional analysis
21 memorandum, the City Council unanimously adopted the no trespass ordinance on February 11, 2013;
22 and

23 WHEREAS, the memo is subject to the attorney-client privilege and not a public document and
24 thus was not available to the public at the public deliberations by the City Council when considering the
25 no trespass ordinance in 2012-2013; and

26 WHEREAS, Councilors Siegel, Brennan, and Tracy requested a second legal opinion on the no
27 trespass ordinance in April, 2013 and the opinion contradicts the legal opinion provided by the City
28 Attorney’s Office to the Mayor and the City Council; and

29 WHEREAS, the legal opinion provided by Attorney John Franco, former Assistant City Attorney
30 and now a private practice attorney, raises several concerns about the constitutionality of the ordinance;

31 NOW, THEREFORE BE IT RESOLVED that the City Council will waive the attorney-client
32 privilege as to the City Attorney memorandum regarding the constitutional analysis of the No Trespass
33 Ordinance dated June 12, 2012, make it public and send it to the Ordinance Committee for review; and

34 BE IT FURTHER RESOLVED that the City Council requests that its Ordinance Committee
35 review the issues raised by Attorney John Franco in his communication to several City Councilors and to
36 make recommendations to the City Council on any further action related to the no trespass ordinance and
37 the Ordinance Committee is directed to report back to the council with report and recommendations no
38 later than the second City Council meeting in September 2013.