

## OFFICIAL COPY OF PROPOSED CHARTER CHANGES

**These charter amendments are proposed to be voted on at the Tuesday, March 5, 2024 Annual City Meeting.**

**The following changes (deleted matter in strikeout and new matter underlined) are being proposed by the City Council:**

1. *“Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended be further amended to amend Article 62, Police Department; Article 63, Chief of Police and Captain; and Article 65, Removal or Suspension, thereto to read as follows:*

### **ARTICLE 62. POLICE DEPARTMENT**

#### **183 Board of Police commissioners; composition; terms.**

The Board of Police Commissioners shall consist of seven legal voters and should represent the diverse nature of said City’s constituents, including those from historically marginalized communities, to be appointed by the City Council with Mayor presiding to serve for three years and until their successors are appointed and qualified.

#### **184 Same-powers and duties.**

(a) The City Council shall make rules and regulations for the government of the entire ~~p~~Police ~~for~~ Department and shall fix the qualifications of applicants for positions and service on said ~~for~~ Department and, to the extent permitted by applicable law, the Chief of Police shall furnish the City Council with any information they may require concerning ~~the finances of the Police Department.~~ The Chief of Police shall be responsible for all expenditures made by the Police Department and no expenditures shall be made by the Department except in conformity with the standards promulgated by the City Council.

(b) The Board of Police Commissioners shall have such authority and responsibility relating to the management, auditing, or monitoring of the Police Department, its services, and facilities as may be delegated from time to time by ~~resolution~~ the ordinances and orders of the City Council. Said Board shall notify the Mayor and the Chief Administrative Officer, in writing, of any and all changes, modifications, or additions to the rules and regulations of the Department.

(c) Without limitation to the foregoing, the Board of Police Commissioners and the Chief of Police may propose rules and regulations for the government of the entire Police Department in a manner not inconsistent with those established by the City Council. Adoption of such proposed rules and regulations requires joint approval by the Board of Police Commissioners and the Chief of Police. In the event joint approval is not provided by the Board of Police Commissioners and the Chief of Police, either party may bring forward to the City Council the proposed rule or regulation for the City Council’s consideration.

(d) The Board of Police Commissioners shall have the authority to receive and review all civilian and internal allegations of misconduct by members of the Police Department. To the greatest extent permitted by law, the Chief of Police shall provide the Board of Police Commissioners timely updates of any review, investigation, or disposition of alleged misconduct, and the Board of Police Commissioners shall have the ability to request additional information from the Chief of Police and access to all documents or other evidence relied upon by the Chief of Police in reviewing allegations of misconduct. For higher level complaints of alleged misconduct, the complaint may not be disposed until the Board of Police Commissioners is notified of the proposed disposition.

After receiving notice from the Chief of Police of the recommended or actual disposition relating to the review of alleged misconduct, the Board of Police Commissioners shall have the authority to:

(i) recommend an alternative disposition to the Chief of Police within a time established by ordinance; or

(ii) independently investigate any allegation of misconduct by members of the Police Department upon a 2/3 majority vote. Such investigation or review shall be conducted by an independent investigator hired by the Board of Police Commissioners, and approved by the City Attorney's Office, and completed within a time established by ordinance. Upon the conclusion of such an investigation, the Board of Police Commissioners may make a recommendation per subsection (i). The Board of Police Commissioners shall not have the authority to investigate or impose discipline upon the Chief of Police. Matters regarding the alleged misconduct of the Chief of Police shall be addressed in conformity with section 190(b) of this Charter.

(e) Upon receiving a recommendation by the Board of Police Commissioners in subsection (d), the Chief of Police may accept the recommendation subject to the notice and hearing provisions in Article 62, section 190(a) or reject the recommendation. In the event the Chief of Police rejects the recommendation, the Chief of Police shall immediately notify Board of Police Commissioners. Upon receiving notice of the rejection, the Board of Police Commissioners may, upon a 2/3 majority vote, request that an independent panel decide the disposition of the matter, subject to the notice and hearing provisions set forth in in Article 62, section 190(a).

This independent panel shall consist of three (3) persons appointed on a case by case basis by the Mayor. Members of the independent panel shall include at least two persons with experience in law enforcement, human resources or labor and employment law, or other similar experience, and one member from the general public.

## **ARTICLE 63. CHIEF OF POLICE AND CAPTAIN**

### **185 Officers of ~~p~~Police ~~foree~~ Department designated.**

(a) The direction and control of the entire ~~p~~Police ~~foree~~ Department, except as herein otherwise provided, shall be vested in a police officer who shall be called the Chief of Police, and such other ranking police officers as the City Council shall authorize, subject to the authority of the

mayor as chief executive officer and the ordinances and orders of the City Council. The order of rank and succession within the Police Department shall be as designated by the City Council by regulation.

(b) Except as herein otherwise provided, such officers shall have the powers and duties granted to police officers by Vermont law and assigned to them by regulations adopted under section 184 of this Charter.

## ARTICLE 65. REMOVAL OR SUSPENSION

### **190 Chief of Police may remove member for cause; hearing.**

(a) Whenever it shall appear to the Chief of Police that any member of said ~~foree~~ Police Department has become incompetent, inefficient or incapable from any cause, or is or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the Chief of Police by a responsible person against such member, the Chief of Police may investigate and, after appropriate notice and hearing, dismiss such member from the ~~foree~~ Police Department, order a demotion in rank, or suspend the member without pay for a specified time period in excess of 14 days. In connection with any possible dismissal, demotion, or suspension for more than 14 days, the Chief of Police's notice to the member shall be given at least 48 hours prior to any hearing and shall include a description of the charges being considered. In connection therewith, the Chief of Police shall have the power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b. ~~The Board of Police Commissioners shall hear any appeal filed in a timely manner with respect to such actions of the Police Chief. The time of filing an appeal and the nature of the appellate process shall be as determined by such Board of Regulation. Following its consideration of any such appeal, the Board may affirm, modify, or vacate the decision made by the Chief of Police.~~

(b) Whenever it shall appear to the Mayor that the Chief has become incompetent, inefficient, or incapable from any cause, or has been negligent or derelict in his or her official duty, or is guilty of any misconduct in his or her private or official life, or whenever any well-grounded complaints or charges to such effect are made in writing to the Mayor by a responsible person, the Mayor may suspend the Chief of Police from duty pending a hearing thereon by the City Council. The City Council shall forthwith notify the Chief of Police of the charges preferred by them, or of the complaints or charges presented by such responsible person in writing, and shall thereupon proceed to consider and investigate the same. It shall appoint a time and place for the hearing of such complaints and charges so made, shall give the Chief of Police reasonable notice of the same, not less than 48 hours, and the City Council shall have the power to subpoena documents and witnesses and to administer the oath to such witnesses. Such a subpoena will be subject to enforcement or modification in conformity with the procedures set forth in 3 V.S.A. §§ 809a and 809b.

(c) If, upon hearing, the City Council shall find such complaints or charges to be well founded, it may dismiss the Chief of Police from the ~~foree~~ Police Department, demote him or her in rank, or suspend him or her without pay for a period not to exceed 60 days. The procedures outlined in this section shall control in the event of any conflict with section 129 of this charter as pertains to the removal of the Chief of Police.

(d) The Chief of Police may, without notice or hearing for any infraction, violation, or disobedience of any of the rules and regulations of the Police Department that may seem to the Chief of Police sufficient, suspend from duty without pay any member of the ~~foree~~ Police Department for a period not to exceed 14 days.”

2. *“Shall the Charter of the City of Burlington, Acts of 1949, No. 298, as amended, in Title III, Article 24, Bonding the City, Section 62(a), be further amended as follows:*

(a) Except as otherwise provided, the credit of the city, except by temporary loans not exceeding during any quarter of any fiscal year twenty-five (25) percent of the taxes assessed upon the entire grand list for such fiscal year, and except by emergency loans as hereinafter provided, shall not be pledged by the city council, or by any officer of said city, unless by vote of the legal voters of said city, at a meeting thereof duly called for that purpose; provided, however, that the chief administrative officer, when authorized and directed by resolution of the city council, may pledge the credit of the city by a temporary loan in anticipation of the receipt of revenue from the airport department, or the traffic division or the wastewater or water divisions of the public works department for their ordinary running expenses during times in any fiscal year when there are not sufficient funds on hand to the credit of the airport department or the above-mentioned divisions for the payment of such bills and accounts, or sufficient unappropriated funds in the city treasury from which such accounts may be paid pending the receipt of revenues of the division sufficient to pay such bills and accounts; and provided further, that the chief administrative officer, when authorized by the city council, may pledge the credit of the city by temporary borrowing in anticipation of the receipt of revenue from the electric department not to exceed ~~\*\*five\*\*~~ \*ten\* million dollars outstanding at any time to provide working capital and liquidity for the electric department \*, with the electric department to repay such borrowing from available revenues\*. Temporary notes issued hereunder in anticipation of the receipt of the revenue from the electric department shall mature within two years from the date of issue, and may be renewed or refunded by the issue of other notes maturing within a similar period whenever such action is deemed expedient. Except as above provided, all temporary loans, except loans for the payment of bills and accounts of the water division of the public works department and the electric department and except emergency loans, shall be paid by the chief administrative officer from and out of the receipts from the collection of the installment of property taxes or other taxes next falling due after the making of the loan, and all moneys received from such temporary loans, other than for the water division of the public works department and the electric department and other than from emergency loans, shall be used to pay the current and ordinary expenses of the city, pending the collection of taxes. All such temporary loans made to pay the accounts and bills of the water division of the public works department pending the receipt of revenue shall be paid during said fiscal year from the revenues received by that division. Temporary loans under this paragraph for the water division and

electric departments shall be general obligations of the city notwithstanding that they are primarily payable from the revenues or receipts of the respective division and departments.”

\* Material underlined added

\*\* Material struck out deleted

This “Official Copy of Proposed Charter Changes” is posted this 21<sup>st</sup> day of Dec. 2023. If revisions are made to this proposed language, based on feedback received at the scheduled public hearings, a revised official copy of proposed charter changes will be posted no later than February 14<sup>th</sup>, 2024.

By:  \_\_\_\_\_

Katherine Schad,

Chief Administrative Officer