

Table of Contents

| SUBCHAPTER | TITLE |
|-----------------------|---|
| 1 | |
| § 101 | <u>INCORPORATION AND GRANT OF POWERS</u> City of Montpelier |
| § 102 | General powers |
| § 103 | Form of government |
| § 105 | Intergovernmental relations |
| 2 | |
| § 201 | <u>CITY VOTING DISTRICTS</u> City voting districts |
| 3 | |
| § 301 | <u>CITY COUNCIL</u> <u>Powers and duties of city council</u> |
| § 302 | <u>City Council composition and term of office</u> |
| § 303 | <u>Vacancy in office of council member</u> |
| § 304 | <u>Election of president, vice president, parliamentarian</u> |
| § 305 | <u>Vacancy in office of president, vice president, parliamentarian</u> |
| § 307 | Council meetings |
| § 308 | Special council meetings |
| § 309 | Council agenda |
| § 310 | Council quorum |
| § 311 | Attendance at meetings |
| § 312 | Council meetings public |
| § 313 | Council minutes recorded |
| § 314 | Executive session |
| § 315 | Council authority to require information |
| § 316 | Compensation |
| § 317 | Council appointments |
| § 318 | Claims for personal services |
| § 319 | Sale of public property |
| § 320 | Contracts |
| § 321 | <u>Ex-officio appointments</u> |
| § 322 | <u>Prohibitions and conflicts of interest</u> |
| 4 | |
| § 401 | <u>MAYOR</u> <u>Election and tenure of mayor</u> |
| § 402 | <u>Powers and duties of mayor</u> |
| § 403 | <u>Vacancy in office of mayor</u> |
| 5 | |
| § 501 | <u>CITY MEETINGS, NOMINATION AND ELECTION OF OFFICIALS</u> City meetings |
| § 502 | Publishing and posting articles |

| | |
|-----------------------|---|
| § 503 | <u>Special meeting to authorize improvements and incur debt</u> |
| § 504 | Election of officers |
| § 505 | <u>Conduct of elections</u> |
| § 506 | Voter checklists |
| § 509 | Election of <u>city officers</u> |
| § 510 | Certificates of nomination |
| § 511 | Canvassing of ballots |
| § 512 | <u>Vacancies in city offices</u> |
| § 514 | Reconsideration and rescission |
| § 515 | School budget <u>vote</u> |

6 SCHOOLS [*Charter Revision Committee did not address Schools*]

| | |
|-----------------------|---|
| § 601 | School commissioners |
| § 602 | Election of board officials |
| § 603 | Vacancy in the office of school commissioners |
| § 604 | Superintendent of schools |
| § 605 | Duties of superintendent of schools |
| § 606 | Term of office |
| § 607 | Annual school report |
| § 608 | Requisition of school fund |
| § 609 | Deposit of school revenues |
| § 610 | Borrowed funds appropriated to school fund |
| § 611 | Payment of school notes and bonds |
| § 612 | Financial report to city treasurer |
| § 613 | School fund |
| § 614 | Compensation |

7 CITY ORDINANCES

| | |
|-----------------------|---|
| § 701 | Council authority |
| § 702 | <u>Ordinance adoption, notice, effective date</u> |
| § 704 | Record of ordinances |
| § 705 | <u>Violation of an ordinance</u> |
| § 706 | Actions in Tort |
| § 707 | <u>Public nuisances</u> |

8 BOARDS AND COMMISSIONS

| | |
|-----------------------|--|
| § 801 | Green Mount Cemetery commission |
| § 802 | Parks commission |
| § 803 | Board of civil authority |
| § 804 | Board <u>for abatement of taxes</u> |
| § 805 | Planning Commission |
| § 806 | <u>Development review board</u> |
| § 807 | <u>Recreation governance</u> |
| § 808 | <u>Council authority over boards and commissions</u> |
| § 809 | <u>Youth members</u> |

| | | |
|---------------|----|---|
| | 9 | <u>ADMINISTRATION</u> |
| <u>§ 901</u> | | Fiscal year |
| <u>§ 902</u> | | Annual city budget |
| <u>§ 903</u> | | Council action on the budget |
| <u>§ 904</u> | | Administrative officers |
| <u>§ 905</u> | | City clerk |
| <u>§ 906</u> | | <u>City treasurer</u> |
| <u>§ 907</u> | | Personnel <u>administration and benefits</u> |
| <u>§ 909</u> | | <u>Annual city report</u> |
| <u>§ 910</u> | | Officers' bonds |
| | 10 | <u>CITY MANAGER</u> |
| <u>§ 1001</u> | | Appointment, eligibility, qualifications |
| <u>§ 1002</u> | | City manager employment contract |
| <u>§ 1003</u> | | Oath of office |
| <u>§ 1004</u> | | Removal of city manager |
| <u>§ 1005</u> | | Vacancy in office of city manager |
| <u>§ 1006</u> | | Powers and duties of city manager |
| <u>§ 1007</u> | | Appointments |
| <u>§ 1009</u> | | Non-interference by city council |
| | 11 | <u>INDEBTEDNESS, BONDS, AND NOTES FOR IMPROVEMENTS</u> |
| <u>§ 1101</u> | | Powers |
| <u>§ 1102</u> | | Submission to voters, <u>public improvements</u> |
| <u>§ 1103</u> | | Submission to voters, school improvements |
| <u>§ 1104</u> | | Warning |
| <u>§ 1105</u> | | Notice of meeting |
| <u>§ 1106</u> | | Authorization |
| <u>§ 1107</u> | | Conduct of meetings |
| <u>§ 1108</u> | | City council action |
| <u>§ 1109</u> | | Bonds, maturities |
| <u>§ 1110</u> | | Debt limits |
| <u>§ 1111</u> | | Specifications |
| <u>§ 1112</u> | | Taxes to meet interest and payments |
| <u>§ 1113</u> | | Advertisement |
| <u>§ 1114</u> | | Execution |
| <u>§ 1115</u> | | Record by treasurer |
| <u>§ 1117</u> | | Use of unexpended bond proceeds |
| <u>§ 1118</u> | | Bonds or notes for refunding - authorization, procedure |
| <u>§ 1119</u> | | Temporary loans in anticipation of taxes and <u>for current expenses</u> |
| <u>§ 1121</u> | | Limitations |
| <u>§ 1122</u> | | Special indebtedness for water purposes, sewage disposal, and heat improvements |
| <u>§ 1123</u> | | Powers of the city not limited |
| <u>§ 1124</u> | | City finances |
| <u>§ 1125</u> | | <u>Budget surplus and deficit</u> |

| | | |
|------------------------|----|---|
| | 1 | <u>ASSESSMENT AND COLLECTION OF TAXES, WATER, SEWER AND HEAT RATES</u> |
| § 1201 | | Assessment of taxes and establishment of tax rate |
| § 1202 | | Notice of tax bill and due date |
| § 1203 | | Tax payment schedule |
| § 1205 | | Warrants on delinquent taxes, <u>water, sewer, thermal energy bills</u> |
| § 1206 | | Lien upon real estate |
| § 1207 | | Application of payment on delinquent taxes |
| § 1208 | | <u>Water and sewer rates</u> |
| § 1209 | | Water meters |
| § 1210 | | Thermal energy rates |
| § 1211 | | Heat meters |
| § 1212 | | Tax collector |
| § 1213 | | Property tax credits – sprinklers |
| | 13 | <u>SPECIAL ASSESSMENTS, TAKING PROPERTY FOR PUBLIC PURPOSES</u> |
| § 1301 | | <u>Taking property for public purposes</u> |
| § 1302 | | Procedure for taking property |
| § 1303 | | Special assessments - Streets, sidewalks, heat production and distribution improvements |
| § 1304 | | Special assessment - Heat improvements |
| § 1305 | | Special assessment - Sewers and drains |
| § 1307 | | Record of special assessments |
| § 1308 | | Notice and time of payment |
| § 1309 | | Record of payment |
| § 1310 | | Warrant for collection of special assessment |
| § 1311 | | <u>Tax collector authority to sell property</u> |
| § 1312 | | Lien not vacated |
| § 1313 | | Sufficient description |
| | 14 | <u>GENERAL</u> |
| § 1401 | | Oath of <u>allegiance, oath of office</u> |
| § 1402 | | Savings clause |
| § 1403 | | Title of charter |
| § 1405 | | Amendment of charter |
| § 1411 | | Separability of provisions |
| § 1412 | | Merger of Fire District No. 1 into city water system |

SUBCHAPTER 1: INCORPORATION AND GRANT OF POWERS

§ 5-101. City of Montpelier

The inhabitants of the territory formerly the Town of Montpelier, and that portion of the Town of Berlin annexed to the City of Montpelier, by an act entitled, "An act to annex an adjacent portion of the Town of Berlin to the City of Montpelier", which act was approved November 29, 1898, are hereby under the name of the City of Montpelier (hereafter the city) and under that name may sue and be sued, prosecute and defend in any court; may have a common seal and alter it at pleasure; may borrow money on the credit of the city, in the mode and under the restrictions hereinafter provided; may elect representatives to the General Assembly of the State, and the number of justices of the peace as provided in Chapter II of the Vermont Constitution for a town of equal population; and generally shall have, exercise, and enjoy all such rights, immunities, powers and privileges as are conferred upon, or are incident to, towns in this state; and shall be subject to like duties, liabilities, and obligations, except as otherwise provided in this Act.

§ 5-102. General powers

The city shall have all the powers given to towns and town school districts by the general law; and may purchase, hold and convey any real estate and erect and keep in repair any buildings necessary or convenient for its purposes; and may acquire, construct, and maintain infrastructure as it may deem necessary for the benefit of the city.

§ 5-103. Form of government

The municipal government provided by this charter shall be known as council-manager form of government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective city council which shall enact ordinances, codes and regulations, adopt budgets, determine policies, and appoint the city manager, who shall enforce the laws and ordinances and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter or prescribed by ordinance. The mayor and council members shall be sworn to the faithful performance of their respective duties. The mayor and council members in their joint capacity shall constitute the city council. The city council shall have all the powers of selectboards, as well as additional powers granted by this charter.

~~§ 5-104. Change of form of government~~

§ 5-105. Intergovernmental relations

The city-through its city council or board of school commissioners, or both, may enter into ~~any~~ agreements with the United States of America or the State of Vermont, and the city may make appropriations consistent with this ~~aet~~ charter to accomplish such purposes.

SUBCHAPTER 2: CITY VOTING DISTRICTS

§ 5-201. City voting districts

There shall be three voting districts for the city, which shall be defined and filed with the city clerk. The city council may make changes from time to time to the boundaries of the districts in order to provide an equal division of population among them, in accordance with U.S. Census Data. Voting district changes shall not be made more frequently than once in five years. Such changes shall be approved by the voters at an annual or special meeting of the city and shall become effective immediately upon approval, unless a later date is established therein.

SUBCHAPTER 3: CITY COUNCIL

§ 5-301. Powers and duties of city council

All powers of the city shall be vested in the council, except as otherwise provided by law or this charter, and the council shall perform all duties and obligations imposed on the city by law. In addition, the council shall have general oversight of the affairs and property of the city not committed by law to the care of any particular officer, including but not limited to the following powers and duties:

(a) Acquire property, real and personal, within or outside its corporate limits for any lawful purpose and by any lawful means including condemnation, in fee simple, or any lesser interest of estate, by purchase, gift, devise, lease or other means of transfer. The council may also sell, lease, mortgage, hold, manage and control such property as its interest may require, in accordance with state law.

(b) Promote and safeguard the public health, safety, comfort, or general welfare by the adoption, amendment, or repeal of ordinances and regulations including but not limited to the following subjects:

(1) Construction of improvements, including curbs, sidewalks, lighting, and storm drains in a manner specified as a condition precedent for, but not limited to, the issuance of a building permit. The city has power to assess part or all of the expenses of such improvements to the property owners benefitted thereby in proportion to respective frontage upon highways or respective values of property or by such standard as determined by the council. The council has power to provide for violation or nonperformance.

(2) Regulation or prohibition of any condition, activity, enterprise, public nuisance or matter concerning promotion of public health, safety and welfare as permitted by the general law of the state.

(3) Licensing of any activity or enterprise as permitted by general law of the state.

(c) Adoption and amendment personnel policies for city employees in accordance with general laws of the state, in accordance with 24 V.S.A. § 1121 as may be amended from time to time.

(d) Authorization of the expenditure of funds raised from taxation, assessments, appropriations,

finances, grants applied for and received, and other lawful sources.

(e) Provide for citizen participation as appropriate on boards, commissions, and committees.

(f) Fix, demand, impose and enforce such items, conditions and regulations for the excavation of any street or highway by any person as shall be just and reasonably related to the city's reconstruction and maintenance costs, including expenses to be paid to the city for damages resulting from a street excavation or for the purpose of erecting and maintaining poles, wires or other apparatus in or under the street. The city has the power to prohibit the use of any street by any such person until such conditions have been complied with.

§ 5-302. City council composition and term of office

The city council shall consist of the mayor and two council members from each voting district. Members shall be elected by the voters of each respective district. Council members shall serve for a term of two years, and one council member will be elected per year for each district.

§ 5-303. Vacancy in office of council member

A vacancy on the council shall occur upon the death, removal from the district, inability to serve, or resignation of a council member. A vacancy in the office of council member with more than 90 days of unexpired term remaining shall be filled by the remaining members of the city council. At the next annual meeting of the city, the unexpired term of office shall be filled by election for the balance of the unexpired term. The council may remove a council member who has unexcused absences at four or more consecutive council meetings upon approval of 2/3rds of the council.

§ 5-304. Election of president, vice president, parliamentarian

Following the annual meeting, the council shall elect from its members a president, vice president, and parliamentarian. The president shall assume all the duties of the mayor, in the event of a vacancy in that office. The vice president shall assume powers and duties of the mayor in the event of a vacancy in the offices of mayor and president. The parliamentarian shall advise the council on rules of procedure.

§ 5-305. Vacancy in office of president, vice president, parliamentarian

In the event of the death, resignation, or disqualification of the president, vice president, or parliamentarian, the remaining council members shall elect a successor to serve until the next annual meeting.

§ 5-306. Duties of the president and vice president

§ 5-307. Council meetings

The city council shall hold meetings monthly on a regular schedule, and oftener at the call of the mayor.

§ 5-308. Special council meetings

Special meetings of the city council may be called at any time by the mayor. They may also be called by the clerk on a petition signed by a majority of the city council and filed with the clerk.

Public notice and notice to the council shall be given in accordance with public meeting law, 1 V.S.A. § 312, as may be amended from time to time.

§ 5-309. Council agenda

The city manager shall prepare a written agenda for each meeting of the council. The city manager shall add to the agenda any items requested by a council member or by written request of any other person. The agenda shall be posted in accordance with state statute.

§ 5-310. Council quorum

A quorum of the city council, consisting of a majority or four council members, shall be necessary to conduct business; however, the transaction of business shall be in accordance with 1 V.S.A. § 172 as may be amended from time to time. A number less than a quorum may adjourn from time to time, may compel the attendance of absent members and enforce such penalties for non-attendance as the city council may by ordinance prescribe.

§ 5-311. Attendance at meetings.

Any city officer or employee may be required to attend a meeting of the city council.

§ 5-312. Council meetings public

All meetings of the city council shall be open to the public, and conducted in accordance with public meeting laws and rules of procedure adopted by the council, except when a majority of the council votes to enter into executive session or deliberative session or acting in a quasi-judicial role, as specified in 1 V.S.A. § 312 as may be amended from time to time.

§ 5-313. Council minutes recorded

All minutes of the city council meetings shall be recorded in a book of city council records and shall be available to the public as provided in the general access to public records laws of the state.

§ 5-314. Executive session

The council may enter into executive session by majority vote in accordance with 1 V.S.A. § 313(a) as may be amended from time to time.

§ 5-315. Council authority to require information

The city council shall have the authority to require the city clerk, and each appointive city officer, excluding school department officers, to furnish information concerning anything connected with, or work planned to be performed in, their respective department.

§ 5-316. Compensation

The mayor and council members shall receive as compensation for their services such sums as shall be voted to them at the annual city meeting of each year.

§ 5-317. Council appointments

The city council shall appoint the following officers; a city manager, city treasurer, and city attorneys. The city may remove any such appointee and appoint another. Council shall also appoint and remove members of boards and commissions created by the council and other

officers approved by the council or required by law. Any appointment made by the city council to fill a vacancy shall be only for the balance of the unexpired term in which the vacancy occurred.

§ 5-318. Claims for personal services

No claim for personal services shall be allowed to the officers elected at the annual meeting, except when compensation for such services is provided for under the provisions of this act or by the general law. The compensation of all officers and employees of the city shall be fixed by the city council, except as herein otherwise provided.

§ 5-319. Sale of public property

The city council may authorize the sale or lease of any real or personal estate belonging to the city. All conveyances, grants, or leases of any real estate owned by the city shall be signed by the mayor in accordance with 1 V.S.A. § 313 as may be amended from time to time.

§ 5-320. Contracts

All contracts on behalf of and any purchases for the city shall be authorized by the city council, except as otherwise provided by ordinances of the City of Montpelier or this charter.

§ 5-321. Ex-officio appointments

The city council shall have the powers of the board of water and sewer commissioners, the local board of health (when convened with the health officer), and the local board of liquor control as specified by this charter and state statute.

§ 5-322. Prohibitions and conflicts of interest

(a) Holding other office: Except where authorized by law, no councilor shall hold any other city office or city employment during the term of election to the council. However, a paid or unpaid volunteer member of the fire department, other than an officer or member of the department appointed directly by the city manger, may serve as a member of the city council.

(b) Appointments and removals: Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of the manager's subordinates are empowered to appoint.

(c) Interference with administration: Except for the purpose of inquiries and investigations under this charter, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) Conflict of interest: By ordinance, resolution, parliamentary rule of prohibition, the council shall adopt measures relating to the definition, disclosure and consequences of a conflict of interest or any perception thereof involving elected and appointed city officials.

SUBCHAPTER 4: MAYOR

§ 5-401. Election and tenure of mayor

The mayor shall be elected by and from the qualified voters of Montpelier. The mayor shall hold office for a term of two years or until the mayor's successor is elected and qualified.

§ 5-402. Powers and duties of the mayor

The mayor shall be the chief executive officer of the city subject to provisions in this charter related to the city manager. The mayor shall use the mayor's best efforts to see that the laws and the city ordinances are enforced, and that the duties of all subordinate officers are faithfully performed. The mayor shall take care that the finances of the city are properly managed, and shall bring before the city council public issues relevant to the affairs of the city. The mayor shall preside at all city council meetings with the powers of moderator and shall have a voice and vote in city council meetings in accordance with council rules and procedures.

The mayor may veto any action passed by the city council, provided it is done before the next regular council meeting and the mayor provides a written explanation for the veto. Any veto by the mayor can be overridden by a vote of five or more council members at the next regular city council meeting.

§ 5-403. Vacancy in office of mayor

In the case of a vacancy in the office of mayor, with more than 120 days of unexpired term remaining, the city council shall forthwith direct the city clerk to call a special meeting of the voters of the city for the election of an interim mayor, serve for the unexpired term and until the mayor's successor is duly elected and qualified. Nominations to fill a vacancy in the office of mayor shall be by certificate signed by at least 25 voters. The certificate shall be filed with the city clerk not less than 15 and not more than 25 days before the special election. In the event 120 days or less remain of the unexpired term, the council president shall assume the duties of the mayor.

§ 5-404. Duties of the Mayor

§ 5-405. Powers of the Mayor

SUBCHAPTER 5: CITY MEETINGS, NOMINATION AND ELECTION OF OFFICERS

§ 5-501. City meetings

(a) On the first Tuesday of March in each year, a meeting of the voters of the city shall be held as designated on the warning for such meeting, at a place or places to be appointed by the city council, and a warning shall be posted in accordance with state statute. Any business or election required by this charter or the general law to be transacted at the annual meeting may also be transacted at a special meeting.

(b) The warning for annual and special city meetings shall, by separate articles, specifically indicate the business to be transacted, including the offices and the questions to be voted upon. The warning shall contain any legally binding article or articles requested by 10% of the

registered voters of the city. The warning shall also include any nonlegally binding articles, including matters of state, national or international importance requested by 5% of the voters. Petitions requesting that an article be placed on the warning shall be filed with the city clerk no fewer than 40 days before the day of the annual meeting.

(c) All budgets, elections, and public questions shall be considered by Australian ballot at annual and special meetings.

(d) A vote taken at an annual or special meeting shall remain in effect unless rescinded or amended.

§ 5-502. Publishing and posting of articles

When questions involving authorization of public improvements and the incurring of debt to pay for the same are to be referred to the voters at an annual or special city meeting, the articles of the warning for such meeting shall be posted as provided by state statute.

§ 5-503. Special city meetings to authorize improvements and incur debt

The city clerk, when directed by the city council, or when requested in writing by 10% of the voters to do so, shall call a special meeting of the voters of the city in the same manner provided for calling the annual meeting. In case of the failure of the city clerk to call such special meeting, that duty shall be performed by the mayor. Special meetings to authorize public improvements and the incurring of debt to pay for the same shall be warned as provided by general laws of the state. The city council shall call the special meeting within 60 days of the application being received by the city clerk. The city council may rescind the call of a special meeting that it initiated itself, but not a special meeting called upon the petition of 10% of the voters.

§ 5-504. Election of officers

All officers shall be elected by Australian ballot, according to general law of the state, except when otherwise provided in this charter. Candidates' names shall appear in order on the ballot as shall be drawn by lot under the direction of the board of civil authority. Provisions for write-in votes shall be available for voters

§ 5-505. Conduct of elections

The city clerk and board of civil authority shall conduct elections in accordance with general laws of the state.

§ 5-506. Voter checklist

The city clerk and board of civil authority shall manage voter qualification, registration, checklist, and absentee balloting in accordance with general laws of the state.

~~§ 5-507. Presiding officer at city meetings~~

~~§ 5-508. Method of voting tax appropriation~~

§ 5-509. Election of city officers

At the annual meeting, Montpelier voters shall elect from among the city voters a mayor for a term of two years; a city clerk for a term of three years; a city council member from each district

for a term of two years, other elective city officers, and two school commissioners, each for a term of three years. Each elected officer shall hold office until a successor has been duly elected and qualified.

§ 5-510. Certificates of nomination

Certificates of nomination for city offices to be filled at annual city meetings shall be filed by the candidate, or with the candidate's written assent, with the city clerk not less than 30 nor more than 40 calendar days before such meeting. All nominations for city offices shall be made by certificate signed by 25 or more voters, in accordance with general laws of the state. Candidates running for city council need a certificate signed by 25 or more voters from the specific district in which they reside. A voter shall not sign more than one certificate for the same office except when there are multiple seats to be filled.

§ 5-511. Canvassing of ballots

At the close of the balloting at any city election or annual or special city meeting, the city clerk and the board of civil authority, and such other election officers as may be designated by the board of civil authority, shall canvass the ballots cast for all officers and for any proposals on the ballot. The clerk shall report the results in accordance with state statute. The candidate who has received a plurality of the votes cast for each respective city office shall be declared elected to that office. Any election for state or county officers or representatives to the general assembly shall, in all cases, be conducted according to the general law of the state.

§ 5-512. Vacancies in city offices

A vacancy in an elective office occurs upon the death, resignation of the office holder, inability to serve, removal from the city, and in the case of a council member, removal from the district. Vacancies occurring in an elective office with more than 90 days of unexpired term remaining, excepting a vacancy in the office of council member or school commissioner, shall be filled by the city council until the next annual meeting of the city. The unexpired term of any office filled as provided in this section shall, at the next annual meeting of the city, be filled by election for the balance of the term in accordance with general law.

~~§ 5-513. Vacancies created~~

§ 5-514. Reconsideration and rescission

(a) Action taken on a warned article at an annual or special meeting may be submitted to the voters at a subsequent annual or special meeting on motion of the city council or pursuant to a petition requesting reconsideration or rescission signed by not less than 10% of the registered voters and filed with the city clerk within 30 days following the date of the annual or special meeting at which the action was taken.

(b) A majority vote in favor of reconsideration or rescission shall not be effective unless the number of votes in favor of reconsideration or rescission exceeds 2/3rds of the number of votes cast for the prevailing side at the original meeting.

§ 5-515. School budget vote

The school budget shall be voted as a separate ballot item at annual meeting.

SUBCHAPTER 6: SCHOOLS [J. Paul Giuliani (JPG), Paul S. Gillies (PSG), and Steve Jeffrey (SJ) – individuals with charter expertise and advisors to the Montpelier Charter Review Committee – were asked to offer comments on the Charter as we started the review process 11/2012. Their comments on Subchapter 6 are included below.]

§ 5-601. School commissioners

The exclusive management and control of the public schools and of all school property of the city shall be vested in a board of seven (7) school commissioners for terms of three (3) years.

Comment: 10/24 JPGiuliani (JPG) suggests adding after commissioners "elected at large" and an additional final sentence "Except as otherwise provided in this charter, the board of commissioners shall have the powers, authority, and responsibilities conferred by general law on boards of school directors."

§ 5-602. Election of board officials

The board of school commissioners shall annually, not later than the second Wednesday after the first Tuesday in May, elect one of their number chairman of said board, one of their number vice-chairman, one of their number secretary of said board, and one of their number treasurer of said board. The board shall require its treasurer and other commissioners it deems necessary to give bond to the city to the satisfaction of the board for faithful discharge of their trust. If the board shall require a bond with a fidelity company as surety, the expense thereof shall be paid from the school fund. The board may, by agreement with the city council, provide that its treasurer be covered under a blanket bond to be contracted as authorized by Section 9 of Title IX. In such event, an equitable proportion of the cost of such blanket bond shall be paid out of the school fund.

Comments: 10/24 JPG suggests correction to the reference related to bonds – should read Subchapter 9-Administration, section 910 – Officers' Bonds 10/24 Steve Jeffrey (SJ) asks Why May? Shouldn't this date be March immediately following their election? Do you really want the treasurer as a board member? I think they should be separate if they have any authority or duties – separation of powers.

§ 5-603. Vacancy in the office of school commissioners.

A vacancy in the office of school commissioner with more than 90 days of unexpired term remaining shall be filled by the remaining members of the board of school commissioners under the next annual meeting of the city.

Comment: 10/24 JPG suggests correction of "under" to read "until" and addition of a final sentences "A vacancy on the board of school commissioners shall occur upon the death, removal from the city, or resignation of a commissioner. A vacancy shall be deemed to exist in when a commissioner is absent from four (4) consecutive regular meetings without the consent of a majority of the remaining commissioners."

§ 5-604. Superintendent of Schools.

The board of school commissioners shall, at the meeting specified in Section 2 ~~602~~ above or at any subsequent meeting, appoint a superintendent of schools who shall not be one of their number. The board shall fix the compensation of the superintendent of schools, and said compensation shall be paid in the same manner as other expenses for the support of schools.

§ 5-605. Duties of superintendent of schools.

The superintendent of schools shall perform such duties in connection with the public schools of the city as shall be assigned to the superintendent by the board of school commissioners. The superintendent shall annually report to the city council such statistics as are required to be kept by law and such other information as the board of school commissioners shall direct.

Comment: 10/24 JPG suggests inserting after "public schools of the city" "as prescribed by general law and"

§ 5-606. Term of office

The superintendent of schools may be appointed for a term not to exceed three years. The board of school commissioners may remove the superintendent of schools for causes of incapacity, neglect of duty, or misconduct. Said board shall by appointment fill all vacancies in such office.

§ 5-607. Annual school report

The board of school commissioners shall submit to the city council, on or before **February 15** of each year, its annual report on the status of the schools. Said report shall include an estimate of the necessary expenditures for the support of schools for the ensuing year, the amount of school income to be received from sources other than local taxation and a recommendation of the amount of money to be raised by local taxation for the support of schools for the ensuing year. Said report shall be published with the report of city officials.

Comments: Charter Revision Committee suggests replacing "or before February 15 of each year" with "a date agreed upon with the council," because February 15 is too late. 10/24 SJ comments "Again, way too late. Town Report needs to be out not less than 10 days before Town Meeting."

§ 5-608. Requisition of school fund

The board of school commissioners shall, from time to time as the same shall be required, make requisitions on the city council for warrants on the city treasury for such sum of money as they shall require for the payment of the expenses of the schools, which warrants in the aggregate in any year shall not exceed the amount of the school fund established as provided by Section 13 of Title VI of this act.

Comment: 10/24 JPG adds to the final sentence "except to meet obligations imposed by law on the city or on the board of school commissioners." The reference is actually to "Section 613 of the subchapter"

§ 5-609. Deposit of school revenues

All moneys received by the school board from tuition and other sources, except from the city treasurer on requisition as provided in the preceding section, shall be turned over to the city treasurer, unless specifically exempted by the city council. The board of school commissioners shall have no authority to expend any money which may be received by them from any source, except such as may be received from the city treasurer on requisition as above provided, or unless specifically exempted by the city council.

Comment: 1/19 Paul S Gillies (PSG) asks What does "unless specifically exempted by the city council" mean? (it occurs twice in section 609) "I suspect it is something that never happened and is unneeded in the charter."

§ 5-610. Borrowed funds appropriated to school fund

All money received from notes or bonds issued by authority of the legal voters as provided in Title XI of this act for improvements relating to schools or school property shall be appropriated to the school fund, and may be spent by the board of school commissioners for the purpose for which issue of said notes or bonds was authorized.

Comment: 10/24 JPG adds text at 3 places: following "this act" in line 1 – "or otherwise" following "school property" in line 2 – "or for the payment of expenses relating to the operation of the public school system" following "school fund" line 3 – "or to a subaccount thereof," Also, "Title XI" should read "Subchapter 11" 1/19 PSG comments "Is 610 consistent with 608? What is the council's power to control spending by the school board?" Committee notes that occurrences of "this act" are replaced in other subchapters with "this charter"

§ 5-611. Payment of school notes and bonds

The board of school commissioners shall include in its estimate of necessary expenditures for the support of schools and its recommendation of the amount of money to be raised by local taxation for the support of schools, which estimate and recommendation are provided for in Section ~~7 of this title~~ 607 of this subchapter, the amount of money required for payment of principal and/or interest on any bonds or notes heretofore or hereafter issued by the City of Montpelier for school purposes and said amount shall be specifically designated in said estimate and recommendation by the board of school commissioners. The city in voting money for school purposes at any annual or special meeting shall include in the amount voted for the support of schools said amount of money needed for the

payment of principal and/or interest on bonds or notes heretofore or hereafter issued by the city for school purposes. Said amount of money required for the payment of principal and/or interest on bonds or notes as hereinbefore set forth shall be used by the board of school commissioners for the purpose of paying said principal and/or interest. In case of conflict between this section and other provisions of this charter, this section will prevail.

Comment: 1/19 PSG When any section requires a sentence like the last one above, somebody has tried to take a shortcut to amend sections of the charter that might be in conflict; it's not a good sign when you have to include it.

§ 5-612. Financial report to city treasurer

The board of school commissioners shall each year, after its accounts have been audited, make available to the city treasurer, on request, all vouchers showing money expended during the preceding year, which vouchers shall be kept by the school system.

§ 5-613. School fund

The city council shall annually appropriate such dollar amount as may be voted for the support of schools at the annual city meeting or any special city meeting duly warned and held for that purpose, all such moneys as shall be received from the state for the use of schools, all moneys and income from tuition and any other sources for the use of schools, and the income of any other property or money donated by any person to the city for the use of schools, all money as may be received from the federal government for the use of schools and money received from any source and specifically designated as money to be used for schools, the total amount of which shall be kept by the city treasurer, unless especially exempted by the city council, and the city council shall authorize warrants drawn on the city treasury for the payment of the same to the treasurer of the board of school commissioners, upon requisition made by such board, at such times and for such amount, not exceeding in the total for the year the amount of the school fund, as such requisition shall designate.

Comment: 1/19 PSG This suggests that the school board has plenary authority to spend. The question of authority keeps coming up. The idea that the city council can "especially exempt" some funds from being kept by the city treasurer is odd. This is likely unnecessary.

§ 5-614. Compensation

The school commissioners shall receive as compensation for their services such sum as may be voted to them at the annual meeting of each year.

SUBCHAPTER 7: CITY ORDINANCES

§ 5-701. Council authority

The city council may adopt, amend, repeal, and enforce any by-law, regulation, or ordinance which it may deem necessary and proper for carrying into execution the powers granted by this charter and state law or for the well being of the city, in accordance with 24 V.S.A § 2291, as may be amended from time to time.

§ 5-702. Ordinance adoption, notice, and effective date

A proposed by-law, regulation or ordinance shall be adopted upon completion of the process that includes public notification and public hearing prior to passage by the council. The adoption or amendment of an ordinance shall be warned in accordance with 24 V.S.A. § 1972, as may be amended from time to time, in addition to posting on the city website and public notice six days prior to effective date. An ordinance takes effect 15 days after passage unless the city council or the clerk receives a petition signed by 5% of the voters calling for a public vote to disapprove the ordinance.

~~§ 5-703. Notice before final action.~~

§ 5-704. Record of ordinances

The city clerk shall prepare and keep in the city clerk's office the ordinances passed by the council, with a complete index of the ordinances according to subject matter. City ordinances shall be available on the city website.

§ 5-705. Violation of an ordinance

The violation of an ordinance shall be enforced according to state statute.

§ 5-706. Actions in tort

In addition to any fine and other punishment provided for violation of a by-law, regulation, or ordinance, the City of Montpelier may have and maintain an action in tort founded on this statute against any person damaging or destroying city property or injuring or corrupting the water supply or water system of the city, and may recover treble damages against such person.

§ 5-707. Public nuisances

In prosecutions for public nuisances, possible relief for the city may include damages and injunction relief, as well as orders to authorize the city to remedy the nuisance, if possible, and charge the offending party.

~~§ 5-708. Liability for damages~~

SUBCHAPTER 8: BOARDS AND COMMISSIONS

§ 5-801. Green Mount Cemetery Commission

The Green Mount Cemetery commission shall have charge of all public cemeteries and burial grounds in the city with the same power and authority as similar officials in towns. Commissioners of the Green Mount Cemetery shall be elected at the annual meeting of the city to comply with the charter of the Green Mount Cemetery. They and the city treasurer shall have all the authority and carry out all the conditions made by the charter of Green Mount Cemetery. These commissioners shall be five in number, and one shall be elected at each annual meeting for a five-year term. Vacancies on the board shall be filled by the remaining commissioners until the next annual meeting of the city.

§ 5-802. Parks commission

The parks commission shall consist of five members, one of whom shall be elected at each annual meeting for a five-year term. Vacancies in the commission shall be filled by the remaining commissioners until the next annual meeting of the city. The commission shall have charge of the construction, maintenance, and control of all public parks within the city. The term "public parks" shall not be construed to include recreational fields and playgrounds.

§ 5-803. Board of civil authority

(a) The city council, city clerk and the justices of the peace resident in the city shall constitute

the board of civil authority which shall perform all the duties imposed by law upon such boards in towns, except as otherwise provided in this charter.

(b) All meetings of the board of civil authority shall be called by the mayor who shall request the city clerk to notify the members thereof of the time and place of such meeting, either personally or by written notice duly mailed to each member at least five days before such time appointed. If the mayor fails to call a meeting of the board of civil authority when such meeting is required by law, the city clerk shall call such meeting and shall notify the members.

(c) A minimum of 1/3rd of the members shall constitute a quorum. Annually, at the first meeting of the board of civil authority after the annual city meeting, the members of the board shall elect one of their members as chair of the board to serve until after the next city election. The chair shall preside at each meeting of the board. The city clerk shall preside at each meeting until the presiding officer is chosen. The board of civil authority shall meet before all annual or special meetings, state and national elections, and before city party caucus dates for the purpose of adding and purging the voter checklist.

§ 5-804. Board for abatement of taxes

(a) The board for abatement, consisting of the board of civil authority, the city assessor, and the city treasurer, shall be governed by the general laws of the state in respect to abatement of taxes. The board for abatement shall meet on the first Tuesday in June in each year, which meeting may be adjourned from time to time thereafter for the purpose of considering abatement of paid taxes as provided by general law; 24 V.S.A. §1535, as may be amended from time to time. All requests for abatement of paid taxes shall be filed with the city clerk at least five days before the date of such meeting. The city clerk shall cause such meeting to be warned by posting and publishing a notice of the same at least 15 days prior to such meeting and also five days prior to such meeting.

(b) All meetings of the board for abatement of taxes shall be called by the mayor who shall request the city clerk to notify the members thereof of the time and place of such meeting, either personally or by written notice duly mailed to each member at least five days before such time appointed. If the mayor fails to call a meeting of the board for abatement of taxes when such meeting is required by law, the city clerk shall call such meeting and shall notify the members.

§ 5-805. Planning commission

The planning commission of the City of Montpelier shall consist of seven members appointed by the city council for two-year terms in accordance with general law, Title-24, V.S.A §§ 4322-4323, as may be amended from time to time. The planning commission shall perform such planning functions and duties as may be required by the city council, charter, ordinances, or applicable state laws.

§ 5-806. Development review board

The development review board shall consist of five regular members and two alternate members, appointed by the city council for three-year terms in accordance with general law and 24 V.S.A., as amended, Chapter 117, § 4461, as may be amended from time to time. The development review board shall, upon the request of an interested person, hear the appeal of any decision or

act taken by the administrative officer in accordance with the procedures outlined in 24, V.S.A., Chapter 91, sub-chapter 8, as may be amended from time to time, and perform such other duties as may be required by the city council, charter, ordinances or applicable state laws. A quorum shall consist of a minimum of three regular or alternate members up to a maximum of five regular or alternate members. Alternate members may serve on the board when one or more regular members are unable to attend a meeting. The development review board shall be further governed by the rules and procedures as provided in the city ordinances.

§ 5-807. Recreation governance

(a) The city may establish, maintain and conduct a system of public recreation including playgrounds; may set apart for such use any land or buildings owned or leased by the city; may acquire land, buildings and recreational facilities by gift or purchase; may issue bonds therefore as provided by law and equip and conduct the same; may employ a director of recreation and other employees as necessary; and may expend funds for the aforesaid purposes.

(b) The city council may conduct the same through a department of recreation. Alterenately, the council may delegate the conduct thereof to a recreation board created by the council, or to the school board, or to any other appropriate existing board or commission.

(c) If the council chooses to appoint a recreation board, it shall consist of five members appointed by the council for three-year terms. The recreation board shall perform such planning functions and duties as may be required by the council, charter, ordinances, or applicable state laws.

(d) The recreation budget shall be an integral part of the city budget and under the control of the city or its designee.

§ 5-808. Council authority over boards and commissions

(a) City council has the authority to create new boards and commissions. City council also has the authority to consolidate or eliminate any city boards and commissions not required by law.

(b) Upon approval of 2/3rds of its members, the council has the authority to remove a member of a board or commission.

§ 5-809. Youth members

The city council may appoint non-voting youth members to city boards and commissions, in addition to the regular appointed members. Youth members shall be enrolled in a secondary school at the time of appointment. Appointments shall last one year, commencing in the beginning of the regular school year calendar.

SUBCHAPTER 9: ADMINISTRATION

§ 5-901. Fiscal year

The fiscal year shall begin the first day of July and end the 30th day of June each year or as otherwise authorized by the voters of the city.

§ 5-902. Annual city budget

The city manager shall prepare and submit a proposed fiscal budget to the city council in December or in compliance with their agreed upon schedule. The council shall have the authority to set the budget submission date.

§ 5-903. Council action on the budget

The city council shall review the annual city budget as submitted by the city manager at budget meetings established by the council. The meetings of the city council upon the budget shall be open to the public. During its review of the proposed budget, the city council may add or increase budget programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for fixed debt service requirements.

§ 5-904. Administrative officers

The administrative officers of the city shall be those provided by law for towns except as otherwise provided by this charter. Officers shall have all the powers and duties necessary to carry out the provisions of this charter as well as those provided by law.

§ 5-905. Elelection and tenure of city clerk

The city clerk shall be elected by the voters of Montpelier for a term of three years. Following the election, the city clerk may appoint one or more assistant clerks. In the event of a vacancy in the office of city clerk, the assistant city clerk shall assume the duties of the office until such time as the vacancy is filled. The powers, authority, and responsibilities of the city clerk shall be those prescribed by general law in addition to those set forth in this charter.

§ 5-906. Appointment of city treasurer

The city treasurer shall be appointed by the city council. The treasurer shall serve as an officer and employee of the city under the city manager's administrative control.

§ 5-907. Personnel administration and benefits

The city council may adopt rules relating to personnel administration, including the following: job classification, tenure, retirement, pensions, leaves of absence, vacation, holidays, hours of work, group insurance, salaries, layoffs, reinstatement, promotion, demotion, dismissal, transfer, injury, and settlement of disputes and appeals.

~~§ 5-908. Payment of contractual accrued liability~~

§ 5-909. Annual city report

A full record of expenditures shall be kept and a clear statement of all receipts and disbursements of city money and of the affairs of the city generally, together with the report of the board of school commissioners, auditors, and other city officials, shall be annually published under the direction of the city manager. A reasonable number shall be made available for distribution among the voters of the city at least 10 days prior to the annual city meeting. Such report shall include estimates of receipts and proposed expenditures of the city for the ensuing year.

§ 5-910. Officers' bonds

All officers from whom the city manager may require bonds, or as required by state statute, shall annually give bonds to the city, to the satisfaction of the city manager, for the faithful discharge of their respective trusts. Such bond shall be given before the officer concerned enters upon the officer's duties. If the city manager requires a bond with a fidelity company as surety, the city shall pay the expense thereof. The city manager may contract for one blanket bond to cover all city officials and employees required to furnish bonds. Such blanket bond may, with the concurrence of the school commissioners and other boards or agencies requiring bonds from officers and employees under their control, cover the treasurer of the board of school commissioners and other officers or employees under control of such boards.

§ 5-911. ~~Authority of police officers~~

SUBCHAPTER 10: CITY MANAGER

§ 5-1001. Appointment, eligibility, qualifications

The city manager shall be chosen and appointed by majority vote of the city council for an indefinite term, solely on the basis of the city manager's professional qualifications. The city manager need not be a resident of Montpelier or the State of Vermont at the time of appointment, but shall reside in the city during the city manager's tenure of office unless other conditions are approved by the council.

§ 5-1002. City manager employment contract

The city council shall enter into a written agreement with the city manager establishing terms of employment, including salary and related benefits.

§ 5-1003. Oath of office

The city manager shall be required to take the oath of allegiance and the oath of office as prescribed in the Constitution of the State of Vermont before entering upon the city manager's duties. (See Subchapter 14 General, Section 1401 Oath of Office)

§ 5-1004. Removal of city manager

The city manager may be removed from office by a majority vote of the city council at a duly warned meeting for that purpose, as provided by general law or employment contract. At least 30 days prior to the effective date of such removal, the city council shall by majority vote of its members adopt a resolution stating the reason for the removal, and cause a copy of such resolution to be given to the manager. The city council may by such resolution immediately suspend the manager from active duty, but shall continue the manager's salary until final dismissal unless otherwise contracted between the council and city manager.

§ 5-1005. Vacancy in office of city manager

During times of vacation and planned absences, the city manager designates an acting city manager to perform the duties of the office. In the event of a vacancy in the office of city manager, or during the temporary absence or disability of the city manager, the city council, by resolution of the majority of its members, may appoint an acting city manager to perform the duties of the office. The council shall set the compensation of the person so appointed. The

acting city manager shall have all the powers and duties of the city manager, except any appointment or removal of officials or employees by the acting city manager shall be confirmed by the city council.

§ 5-1006. Powers and duties of city manager

The city manager shall be the administrative head of the city government. The city manager shall be responsible to the city council for the administration of the affairs of the city and for carrying out the policies of the city council. The powers and duties of the city manager shall be as follows:

- (a) Ensure that all laws and ordinances are enforced
- (b) Exercise administrative control over all departments
- (c) Make appointments and removals as provided in this charter
- (d) Prepare the annual fiscal budgets to be submitted to the city council for review and adoption prior to annual meeting
- (e) Attend meetings of the city council, take part in the discussion, provide requested and relevant data, and make recommendations for the determination of policy as the city manager may deem expedient
- (f) Act as purchasing agent for all city departments, except schools
- (g) Set salaries and wages of all employees under the city manager's jurisdiction in accordance with this charter, fiscal budgets, and personnel policies
- (h) Administer the personnel policies, job classifications, and pay plan, and is authorized to take final action on all personnel issues for positions under the manager's administrative control
- (i) Delegate responsibility for administrative duties to department heads and subordinate officers and
- (j) Perform such other duties as may be prescribed by this charter or required by the city council.

§ 5-1007. City manager appointments

Except for those appointments made by the city council as provided for in this charter, the city manager shall make appoint and remove all city employees including chief of the fire department, chief of police, director of public works, director of planning and community development, finance director, senior center director, zoning administrative officer, city assessor, building inspector, assistant city manager, health officer, parks director/tree warden, recreation director, tax collector, and other officers and employees as may be required by general laws of the state, by this charter, or by the city council. City manager appointments shall serve until removed by the city manager. Removals by the city manager shall be in accordance with any personnel policy or plan adopted in accordance with Subchapter 9 of this charter, section 907.

~~§ 5-1008. Termination of appointments~~

§ 5-1009. Non-interference by city council

(a) Neither the city council as a body nor any of its members shall dictate or attempt to dictate the appointment of any person to office or employment, nor the removal of any person from office or employment by the city manager. The city manager may seek the advice of the city council or its members in matters of appointment or employment, but shall be free to exercise the city manager's own judgment.

(b) In addition, neither the city council nor any of its members shall collectively or individually give orders either publicly or privately to any department head or employee of the city under the jurisdiction of the city manager but shall deal solely through the city manager, except for purposes of inquiry.

SUBCHAPTER 11: INDEBTEDNESS, BONDS, AND NOTES FOR IMPROVEMENTS

§ 5-1101. Powers

The city may issue bonds or notes for any improvement authorized by general or special law including this charter. The word "improvement," as used in this subchapter, shall have the meaning ascribed to it by the general laws of the state and shall include the acquisition and construction of facilities for the production and delivery of heat and of devices, facilities, and other measures to conserve energy or promote efficient energy use, and the acquisition or construction of any other work or improvement for which municipalities of the state may now or hereafter be authorized to incur debt.

§ 5-1102. Submission to voters, public improvements

(a) When the city council shall determine that the public necessity or interest demands improvements- (other than improvements relating to schools or school property) and that the cost of the same will be too great to be paid out of the ordinary revenue of the city, the council may by vote of 2/3rds of its members order the submission of proposition to make such improvements and incur debt to pay for them to the voters of the city at an annual or special meeting warned and held for that purpose.

(b) The city council shall, on receipt of a petition signed by 10% of the voters, promptly order the submission of a proposition to make such improvements and incur debt to pay for them to the voters of the city at an annual or special meeting warned and held for that purpose.

§ 5-1103. Submission to voters, school improvements

When the school board shall determine that the public necessity or interest demands improvements relating to schools or school property, or upon a petition signed by at least 10% of the voters, and that the cost of the same will be too great to be paid out of ordinary revenue of the city, the school board may by vote of 2/3rds of its members request the city council to order the submission of a proposition to make such improvements and incur debt to pay for them to the voters of the city at an annual or special meeting warned and held for that purpose.

The city council shall, on receipt of such a request from the school board or by petition, promptly order the submission of a proposition to make such improvements and incur debt to pay for them to the voters of the city at an annual meeting or special meeting warned and held for that purpose.

§ 5-1104. Warning

The warning calling such meeting shall state the object and purpose for which the indebtedness is proposed to be incurred, the estimated cost of the improvements, and the maximum amount of debt to be incurred therefore and shall fix the place where and the date on which such meeting shall be held and the hours of opening and closing of polls.

§ 5-1105. Notice of meeting

The city clerk shall cause the warning of such meeting to be published as provided by general laws of the state

§ 5-1106. Authorization

When a majority of all the voters voting on such proposition at an annual meeting, or special city meeting shall vote to authorize such improvements and the incurring of debt to pay for the same, the city council or, if the improvements relate to schools or school property, the school board shall be authorized to make such improvements.

§ 5-1107. Conduct of meetings

The qualifications of voters at all such city meetings shall be the same as the qualifications of voters at annual city meetings, and such meetings shall be conducted in the same manner as city meetings are conducted. The vote on the question of making the improvements and incurring a debt shall be by Australian ballot in the form provided by general laws of the state.

§ 5-1108. City council action

When the incurring of a debt has been authorized by the voters in the manner above provided, the city council shall determine by resolution whether notes or bonds are to be issued and the terms thereof.

§ 5-1109. Bonds, maturities

All bonds issued under this subchapter shall be payable serially, the first payment to be deferred not more than five years after date of issue and subsequent payments to be continued annually in equal or diminishing amounts so that the entire debt will be paid in not more than 25 years from the date of issue or as may be otherwise permitted by law.

§ 5-1110. Debt limits

The city's debt limits shall be calculated as provided by general laws of the state.

§ 5-1111. Specifications

The city council shall approve the rate of interest, the date, the denominations, the time and place of payment, and the form of such bonds or notes. The city council may provide that the bonds or notes be sold on a competitive bid basis or by negotiated sale.

§ 5-1112. Taxes to meet interest and payments

At the time of voting a general tax levy, the city shall provide annually for the assessment and collection each year, until such bonds or notes are paid, of a tax sufficient to pay the interest on such bonds or notes and the part of the principal as shall become due prior to the time the taxes are due in the next following year.

§ 5-1113. Advertisement

Bonds of the city shall be advertised for sale as provided by general laws of the state.

§ 5-1114. Execution

All bonds and notes issued under this subchapter shall be signed by the mayor and treasurer of the city, and in addition bonds shall bear the seal of the city. The bonds or notes shall contain a statement that they were issued for the purposes mentioned in and in conformity with the provisions of this charter or applicable provisions of the general laws, and such statement shall be conclusive evidence of the same and of the liability of the city to pay the bonds or notes and the interest thereon in an action by a person who in good faith holds such bonds or notes.

§ 5-1115. Record by treasurer

The city treasurer shall keep a record of every bond or note issued under this subchapter, stating the number and denomination of each bond or note, when issued, and the rate of interest. The treasurer shall also keep a record of payments of interest or principal.

~~§ 5-1116. Record~~

§ 5-1117. Use of unexpended bond proceeds

(a) The proceeds of all bonds or notes shall be used for the purpose for which they were authorized. However, any unexpended balance remaining after carrying out the purpose for which they were authorized, other than school purposes, may, by vote of any annual or special city meeting duly warned and held for that purpose, be authorized for any purpose for which bonds may be issued, in accordance with general law, or transferred to a sinking fund established by the council.

(b) Any unexpended balance remaining after carrying out a purpose relating to schools or school property for which bonds or notes were authorized may, in addition to other uses permitted by law, be transferred to a sinking fund.

§ 5-1118. Bonds or notes for refunding - authorization, procedure

The city may issue bonds or notes to refund the principal and interest of bonds or notes then outstanding and for any other purpose authorized by the general laws of the state. Such refunding bonds or notes shall be authorized and issued as provided by law.

§ 5-1119. Temporary loans in anticipation of taxes and for current expenses

The city council shall have the authority to borrow in anticipation of the receipt of taxes and other revenue, in anticipation of the receipt of grants, in anticipation of the issuance of bonds, and for current expenses as provided by the general law and 24 V.S.A. § 1773 and § 1786, as may be amended from time to time.

~~§ 5-1120. Temporary loans for current expenses~~

§ 5-1121. Limitations

The credit of the city shall not be pledged, except in the manner herein provided, and the city council shall not expend in any year a sum of money in excess of the revenues of the city for that year or increase the indebtedness of the city, except, as provided by this charter or to meet obligations imposed by law.

§ 5-1122. Special indebtedness for water purposes, sewage disposal, and heat improvements
For the purpose of owning, operating, improving and managing its public water works system, a public sewage disposal system, heat facilities and devices, facilities and other measures intended to conserve energy use, promote efficient energy use, or any combination thereof, the city may pledge all or any part of the net revenues of such enterprises in the manner provided by general laws of the state.

§ 5-1123. Powers of the city not limited

The powers hereinabove granted shall not be construed in limitation, diminution, or in substitution for, but in addition to, power provided by law for municipalities generally in authorizing and incurring indebtedness for public improvements or otherwise, all of which general powers shall inure to and be exercisable by the city.

§ 5-1124. City finances

Except as hereinafter provided, the money raised by taxation from fines and penalties and from other lawful sources shall constitute the entire sum for which appropriations and payments are to be made by authority of the city council, except that money raised by bonds or notes as hereinafter authorized shall be appropriated and paid out in the manner set forth in this charter.

§ 5-1125. Budget surplus and deficit

Unless otherwise disposed of in the manner provided by law, any surplus existing at the end of the fiscal year shall be carried forward as revenue in the general fund or school fund, as appropriate, for the next ensuing fiscal year. Any deficit existing at the end of the fiscal year shall be liquidated in the manner provided by law.

**SUBCHAPTER 12: ASSESSMENT AND COLLECTION OF TAXES;
ESTABLISHMENT OF WATER, SEWER AND HEAT RATES**

§ 5-1201. Assessment of taxes and establishment of tax rate

The city council shall assess such taxes upon the grand list of the city as voters at any annual or special meeting warned for that purpose have approved for the payment of debts and current expenses of the city, for carrying out any of the purposes of this charter, for the support of schools, and for the payment of all state and county taxes and obligations imposed by law. The vote of the city shall be upon the specific sum of budgeted tax appropriation for the support of all city departments, grants, schools, recreation and senior citizens. The city council shall establish a tax rate based upon the true grand list as appraised by the city assessor, and shall deliver the same to the city treasurer for computation and collection.

(b) The city shall have the authority to change the way that the annual fiscal budget is approved, enabling voters to approve the entire municipal budget instead of or in addition to voting on the budgeted tax appropriation amount. Voting on the entire municipal budget shall take effect when such process is adopted by the majority of the voters at an annual or special meeting duly warned for this purpose in accordance with general law.

§ 5-1202. Notice of tax bill and due date

Thirty (30) days before the due date for the payment of taxes or before the first installment payment thereof, the city treasurer shall send all municipal taxpayers notice in writing of the tax bill, the amount thereof, and the "due date" by which time this amount must be paid to the city treasurer.

§ 5-1203. Tax payment schedule

Except as hereinafter provided, taxes assessed upon the grand list of the city shall be due and payable in equal installments, or as the city council may provide by ordinance. Default in payment of any installment due shall render a penalty based on the payment amount that is in default. Any special tax assessed on the grand list of the city shall be due and payable as the city council shall provide by ordinance.

§ 5-1204. Delinquent taxes

§ 5-1205. Warrants on delinquent taxes, water, sewer, thermal energy bills

Within 30 days following the due date, the treasurer shall prepare warrants for taxpayers and property owners delinquent in payment of taxes, water, sewer, or thermal energy bills. The treasurer shall deliver these warrants forthwith to the tax collector for collection with penalties and interest as provided by ordinance and by law. Such warrants shall remain in full force until all the taxes and other delinquent payments have been either collected, abated, or have become outlawed under the general law.

§ 5-1206. Lien upon real estate

All taxes lawfully assessed upon real estate in the city as well as charges for water, sewer services, heat, and any special assessments shall constitute an underlying lien on such real estate, and shall enjoy priority in law over all other liens regardless of whether such other liens have priority in time.

§ 5-1207. Application of payment on delinquent taxes

Payments made on the account of a delinquent taxpayer shall be applied: first, to all outstanding personal property taxes for which said delinquent taxpayer is responsible; second, to real estate taxes for which said delinquent taxpayer is responsible. However, the holder of a mortgage or other lien upon real or personal property of a taxpayer may make payment on said taxpayer's account and may specify that such payments be applied on the tax assessed against the property covered by such mortgage or lien. Any taxes paid shall be applied to penalty, interest and oldest outstanding delinquency in that order first.

§ 5-1208. Water and sewer rates

The city council shall establish rates to be paid for the use of water supplied by the city water system, and sewage disposal and benefit charges. Water rates and sewage disposal charges shall be and are hereby made a lien in the nature of a real estate tax upon the real estate so supplied with water and public sewers, and shall be collected and enforced under such regulations and ordinances as the city council shall prescribe.

§ 5-1209. Water meters

The city council may provide for use of meters or other mechanical devices as a basis of charging users of water supplied by the city water system, and may in its discretion provide for use of such devices by all users of specified classes.

§ 5-1210. Thermal energy rates

The city council shall establish rates to be paid for the use of heat and improvements supplied by the city for the production and distribution of heat, and such rates shall be called heat rates. Such heat rates shall be a lien in the nature of a real estate tax upon the real estate so supplied with heat, improvements for the delivery of heat, or both, and shall be collected and enforced under such regulations and ordinances as the city council shall prescribe.

§ 5-1211. Heat meters

The city council may provide for use of meters or other devices as a basis of charging users of heat supplied by the city system and may in its discretion provide for use of such devices by all users of specified classes.

§ 5-1212. Tax collector

Delinquent taxes, fees, charges, and assessments shall be collected by the city tax collector, appointed under Section 1007 Appointments of Subchapter 10 City manager, whose powers and duties shall be those provided by general law.

§ 5-1213. Property tax credits - sprinklers

By resolution or ordinance, the city council may grant credits equal to no more than 10% of the annual municipal property tax, or reductions of up to 10% of the appraised valuation, for residential and nonresidential buildings equipped with an operating fire sprinkler system approved by the fire chief in accordance with applicable codes and ordinances.

SUBCHAPTER 13: SPECIAL ASSESSMENTS, TAKING PROPERTY FOR PUBLIC PURPOSES

§ 5-1301 Taking property for public purposes

The city council, upon notice to persons affected, may lay out, make, maintain, alter, establish, install, construct, discontinue or repair the following: any street, road, highway, lane, alley, transportation path or sidewalk; any heat facilities and devices or other measures to conserve or generate energy or promote efficient energy use in the city; any public facilities, parks, playing fields and other improvements deemed necessary by the council; any municipal buildings; any water source, treatment, storage, delivery, sale, transmission and distribution facilities within and without the city; and any sewer and storm water collection, transmission, separation,

treatment and disposal facilities as the public health or the public good shall require.

§ 5-1302. Procedure for taking property

(a) Highways and urban renewal: In taking land and other property for the purposes of laying out roads and highways, the city council shall proceed in the same manner as is provided by law for municipalities in taking land for highways. In taking land and other property for the purposes of urban renewal, the council shall proceed in the same manner as is provided by law for municipalities in taking land for urban renewal.

(b) Other public purposes: For all other purposes stated in Section 1301, when the city council determines that interests in real estate are needed or when a municipality votes to purchase additional lands or interests therein, or when, in the exercise of any of the powers or functions authorized by general law or its charter it becomes necessary for public use and benefit to take, damage, or affect an interest in real estate, and the owner refuses to release or convey the same to the city for a reasonable price, the city council, shall set out the necessary lands or interests therein and cause the same to be surveyed. They shall appoint a time and place for hearing and give at least ten (10) days notice before such hearing to the persons evidencing a recorded interest therein either personally or by written notice left at the residence or place of business of such person. At such hearing the council shall determine the damages sustained by such interested persons. The damages agreed upon or assessed shall be paid or tendered to such persons before taking possession of the lands. Upon payment or tender of damages as determined by the council, the city shall be entitled to take possession of such property.

(c) Notice to mortgagee and application of payment. When such lands are encumbered by mortgage, the city council shall cause the same notice to be given to the mortgagee or assignee thereof as is required to be given to the owner, and the damages agreed upon or otherwise determined, as finally ascertained, shall be paid to the property owner and the mortgagee or assignee.

(d) Removal of improvements. When the city council decides to take lands, in their order for that purpose, they shall fix a time and notify the owner or occupant thereof. Within such time the owner shall, if so ordered, remove his buildings, fences, wood or trees, which, in the case of enclosed or improved lands, shall not, without the consent of the owner, be less than three months nor until compensation for damages to such lands is tendered or paid. If such obstructions are not removed within such time, the council shall remove them at the expense of the city.

(e) Record of orders and proceedings. Orders and proceedings of the council under the provisions of this section, with the survey of the lands taken, shall be recorded in the land records of the city or in the land records of the town in which such lands are located.

(f) Disagreement as to damages. When the owner of such land does not accept the damages awarded by the city council, the council and the owner may agree to refer the question of damages to one or more disinterested persons whose award shall be made in writing and shall be final.

(g) Petition, appointment of commissioners. When a person having an interest in such land is dissatisfied with the action of the council in locating and setting it out or with the damages awarded therefor by them, such person may apply by petition to the superior court for the county in which such land lies within 60 days of the recording of the order of the city council. The petition with a citation shall be served on the city clerk as a writ of summons requiring entry to be made therein within 21 days from the date of service. The court shall appoint three disinterested commissioners, who shall inquire into the amount of damages sustained by the persons interested therein.

(h) Notice, hearing, report, costs. The commissioners shall give the clerk and the petitioners six days' notice of the time and place of the hearing. When they have completed their inquiries, they shall report to the court. Upon hearing, the court may accept or reject the report, in whole or in part, may make such orders as are necessary for locating and setting out such land and for the removal of obstructions thereon, may render judgment for the petitioners for such damages as they have severally sustained, may tax costs for either party, and may award execution in the premises.

(i) Title to vest on payment of damages. When the damages finally awarded are paid to the person entitled thereto, title to such lands or the right to damage or affect lands shall vest in the city.

(j) Definitions. The following words and phrases as used in this chapter shall have the following meanings:

(1) "Necessity" means a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by expense or convenience to the condemning party. Necessity includes a reasonable need for the project in general as well as a reasonable need to take a particular property and to take it to the extent proposed. In determining necessity, consideration shall be given to the:

(A) adequacy of other property and locations

(B) quantity, kind, and extent of cultivated and agricultural land which may be taken or rendered unfit for use, immediately and over the long term, by the proposed taking

(C) effect upon home and homestead rights and the convenience of the owner of the land

(D) need to accommodate present and future utility installations within the improvement area

(E) need to mitigate the environmental impacts of the improvements and

(F) effect upon grand lists and revenues.

(2) Damages resulting from the taking or use of property under the provisions of this chapter shall be the value for the most reasonable use of the property or right in the property, and of the business on the property, and the direct and proximate decrease in the value of the remaining property or right in the property and the business on the property. The added value, if any, to the remaining property or right in the property which accrues directly to the owner of the property as a result of the taking or use, as distinguished from the general public benefit, shall be considered in the determination of damages.

(3) "Interested person" or "person interested in lands" or "property owner" means a person who has a legal interest of record in the property taken or proposed to be taken.

§ 5-1303. Special assessments - Streets, sidewalks, heat production and distribution improvements

The city council, in laying out or establishing new streets, highways, or facilities for the production and distribution of heat, and in making, altering, or repairing sidewalks, and in grading and paving streets and highways, either at the time of laying out or after completion, shall have the power and may upon notice to the owners of adjoining lands assess the owners of such lands so much of the expense of making such new street or sidewalk or street improvements, or heat improvements, including land damage for new streets, as the city council shall adjudge such lands to be benefited thereby.

§ 5-1304. Special assessment - Heat improvements

The city council shall have the power to create an energy district of the City of Montpelier or part thereof and to incur indebtedness for or otherwise finance by any permitted means acceptable facilities for the production and delivery of heat and of devices, facilities, and other measures to conserve energy or to promote efficient energy use on properties within the district. Participation by any property owner in these improvements is subject to city council approval. Persons who participate with an eligible project or projects shall be subject to the requirements of this special assessment. The city council shall establish the criteria and procedures for participation in this special assessment.

§ 5-1305. Special assessment - Sewers and drains

Every person whose particular drain shall empty into any common sewer, either at the time of the construction of the common sewer or thereafter, or who in the opinion of the city council shall receive benefit thereby for draining the person's premises, or whose lands shall be benefited by the proximity of such common sewer, or the owners of lands adjoining or abutting streets in which a common sewer is to be laid, may upon notice be assessed by said city council a just share toward the expense of laying and constructing such common sewer. Such assessment shall be and remain until paid a lien in the nature of a tax upon the land assessed.

~~§ 5-1306. Right of appeal~~

§ 5-1307. Record of special assessments

When the city council shall make assessments, the clerk shall immediately make out a statement of all such assessments, giving the name of the owner and describing the land or other property assessed, and shall cause the same to be properly recorded and indexed in the city clerk's office. The city clerk shall, as soon as such assessments have been recorded as above provided, deliver a copy of the same to the city treasurer for collection.

§ 5-1308. Notice and time of payment

The city treasurer shall forthwith notify each person so assessed by mail. The notice shall state the nature of the assessment, the amount of the same, and the time of payment. Payment due date shall be as noted on the bill.

§ 5-1309. Record of payment

Payment, when made, shall be entered on the record of assessment. Recording as provided above shall be required before such assessment becomes a lien on the land or other property affected.

§ 5-1310. Warrant for collection of special assessment

(a) If the owner of lands or other property assessed by authority of this subchapter shall neglect to pay to the city treasurer the billed amount of such assessment within 30 days after the due date as noticed on the assessment, the city treasurer shall issue a warrant for collection of the same and deliver the warrant to the tax collector for collection.

(b) In case of an appeal, if the court upholds the assessment and it has been recorded in the office of the city clerk, payment shall be due within 30 days after the final court decision, and the city treasurer shall issue a warrant for collection of the same and deliver this warrant to the tax collector for collection.

§ 5-1311. Tax collector authority to sell property

The tax collector shall have authority to sell at public auction so much of said land or other property as will satisfy such assessment and all legal fees, and will proceed in the same manner in the collection of such assessment as collectors of town taxes are authorized and required by law to proceed in selling real estate at public auction for the collection of town taxes. All other remedies given towns by law for collection of town taxes are given the city of Montpelier for collection of all legal assessments made under the provisions of this subchapter.

§ 5-1312. Lien not vacated

While the final resolution is pending on an appeal from an assessment made under the provisions of this subchapter, the city shall not vacate the lien created by such assessment, but shall suspend the same until final determination of the proceedings. The liens for all city assessments shall not be vacated or dissolved.

§ 5-1313. Sufficient description

Whenever a description of lands or buildings is required in making assessments, or in the recording thereof, reference to the deed of conveyance to the last record owner thereof, giving the date of the same and the volume and page of the land records where the same is recorded, or the street upon which the same is situated and the number, shall be a minimum description.

~~§ 5-1314. Taking property for public improvements~~

~~§ 5-1315. Citation and time of serving~~

~~§ 5-1316. Citation served on non-residents~~

~~§ 5-1317. Officer's return~~

~~§ 5-1318. Citation served on persons having other interests~~

~~§ 5-1319. Proceedings not voided for failure to give notice~~

~~§ 5-1320. Correction of citation record~~

SUBCHAPTER 14: GENERAL

§ 5-1401. Oath of allegiance, oath of office

All elective officials of the city shall, before assuming office, take, subscribe, and file with the city clerk the following two oaths, as prescribed by the Constitution of the State of Vermont, chapter 2 § 56.

Oath or Affirmation of Allegiance

"I _____ solemnly swear (or affirm) that I will be true and faithful to the State of Vermont, and that I will not, directly or indirectly, do any act or thing injurious to the Constitution or Government thereof. (If an oath) So help me God. (If an affirmation) Under the pains and penalties of perjury."

Oath or Affirmation of Office

"I ____ do solemnly swear (or affirm) that I will faithfully execute the office of ____ for the City of Montpelier and will therein do equal right and justice to all persons to the best of my judgment and abilities, according to law. (If an oath) So help me God. (If an affirmation) Under the pains and penalties of perjury."

§ 5-1402. Savings clause

The passage of this act shall not affect any ordinance, resolution, or by-law lawfully enacted, ordained, and established under the provisions of the charter, but the same shall be and remain in full force and effect until repealed, altered, or amended.

§ 5-1403. Title of charter

This act shall be designated as the Charter of the City of Montpelier. A copy of this act shall be kept in the office of the Montpelier city clerk, to which copy shall be affixed a certificate under the hand of the secretary of state and the seal of the State of Vermont that the laws therein contained are statute laws of the State of Vermont, and such certified copy shall be an authentic record of such laws.

~~§ 5-1404. Continuation in office~~

§ 5-1405. Amendment of charter

This charter may be altered, amended, or repealed whenever the public good shall require, in accordance with general laws of the state. A copy certified by the secretary of state shall be kept in the office of the city clerk.

Comment/change; Committee updates text and adds reference to general law to define the process for charter changes.

~~§ 5-1406. Transfer of property, rights, privileges, and franchises~~

~~§ 5-1407. Penalties, forfeitures or suits not affected~~

~~§ 5-1408. Continuation of acts not amended~~

~~§ 5-1409. Application of state statutes~~

~~§ 5-1410. Inconsistent acts repealed~~

§ 5-1411. Separability of provisions

If any provision of this act, or the application of such provision to any person, body, or circumstances, shall be held invalid, the remainder of this act, or the application of such provisions to persons, bodies, or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby.

§ 5-1412. Merger of Montpelier Fire District No.1 into the city water system

Upon the effective date of this act, the Montpelier Fire District No. 1 shall be merged into the city of Montpelier and thereby shall cease to exist.

