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2 **Resolution Relating to**
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RESOLUTION
Sponsor(s): Councilors Siegel,
Blais

Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

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6 CHARTER CHANGES CONCERNING
7 CONCEALED FIREARM PERMITS
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12 **CITY OF BURLINGTON**
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14 In the year Two Thousand Thirteen.....

15 Resolved by the City Council of the City of Burlington, as follows:

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17 That WHEREAS, under current federal and Vermont laws, there are no limits on who may carry a
18 concealed weapon; and

19 WHEREAS, the ability to carry a concealed weapon may aid a person otherwise prohibited from
20 possessing a weapon, or a person with felonious intent, in concealing his or her possession of a dangerous
21 weapon; and

22 WHEREAS, requiring a permit will assist the police department in ensuring public safety; and

23 WHEREAS, laws regulating the carrying of concealed weapons are consistent with the U.S.
24 Supreme Court’s interpretation of the Second Amendment, which noted in the 2008 case of *District of*
25 *Columbia v. Heller* that “the majority of the 19th-century courts to consider the question held that
26 prohibitions on carrying concealed weapons were lawful under the Second Amendment”¹; and

27 WHEREAS, Vermont law, 24 V.S.A. §2295, currently limits the power of a city to directly
28 regulate the possession of firearms, thus necessitating action by the state general assembly to amend the
29 City of Burlington’s charter to permit such regulation; and

30 WHEREAS, to date, the Vermont General Assembly has failed to require permits for the carrying
31 of concealed weapons at the state level; and

32 WHEREAS, the City Council of Burlington has determined that the presence of unpermitted
33 concealed weapons is a serious risk to public health and safety, particularly within the concentrated, urban
34 population of the City of Burlington;

35 NOW, THEREFORE, BE IT RESOLVED that the City Council of Burlington hereby authorizes
36 the Charter Change Committee, with the assistance of the City Attorney and Chief Administrative
37 Officer, to prepare a proposal to amend the municipal charter of the City of Burlington to add to the City
38 Charter a section entitled “Article 99 General Weapons Requirements §509 Concealed Firearm Permit,”
39 consistent with the document attached hereto; and

¹ *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

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**CHARTER CHANGES CONCERNING
CONCEALED FIREARM PERMITS**

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BE IT FURTHER RESOLVED that the Charter Change Committee shall bring that final ballot language back to this Council no later than the second Council meeting in November, so that public hearings may be held in sufficient time for consideration by the legal voters of the City of Burlington at the Annual City Meeting in March, 2014.

lb/EBlackwood/c: Resolutions 2013/Charter Changes concerning Concealed Firearm Permits
10/17/13

Changes to City of Burlington Charter

Notwithstanding the provisions of 24 V.S.A. §2295 and 24 V.S.A. §2291(8), which to the extent they are inconsistent with the following provisions are superseded, the City of Burlington Charter is hereby amended to add the following:

ARTICLE 99. GENERAL WEAPONS REQUIREMENTS

§ 509. Concealed Firearm Permit.

- (a) Within the City of Burlington, any person carrying a concealed firearm, loaded or unloaded, in any public space, or in any privately owned space if doing so without the express permission of the owner of the space, must possess a concealed carry permit issued by the Burlington Police Department.
- (b) The Burlington Police Department shall establish reasonable procedures and fees for issuing a license on an annual basis.
- (c) The Burlington Police Department may refuse to issue a license to any person who:
 - (1) is under the age of 18;
 - (2) has been convicted in any jurisdiction of a misdemeanor involving the use of a weapon or the use or threat of physical force or violence within the 10 years preceding the application for a license;
 - (3) has been convicted in any jurisdiction of a felony;
 - (4) is subject to a pending arrest warrant, prosecution, or proceeding that could lead to a conviction outlined in (2) or (3) above, in any jurisdiction.
- (d) This provision shall not apply to
 - (1) any federal, state, or local law enforcement officer acting within the scope of that officer's official duties, or
 - (2) any member of the armed forces of the United States or the Vermont National Guard acting within the scope of that person's military duties;
 - (3) any government officer, agent, or employee authorized to carry a weapon and acting within the scope of that officer's duties.
- (e) The denial of a permit by the Burlington Police Department may be appealed to the Burlington Police Commission within ninety (90) days of the denial. The Commission will issue a written decision on the appeal.
- (f) Any person aggrieved by the decision of the Police Commission may appeal to the Vermont Superior Court Civil Division, Chittenden Unit, pursuant to Chapter 102 of Title 12 of the Vermont Statutes Annotated and Vermont Rule of Civil Procedure 74, within thirty (30) days

of the Commission's decision. This appeal shall be based solely on the information presented to the Commission at the time of its decision.

(g) If an individual with a concealed carry permit is stopped by a law enforcement officer for any reason while carrying the weapon, the individual must disclose the presence of the permitted firearm.

(h) The penalty for any violation of this section shall be as follows:

(1) Criminal Offense. Any violation of this Article shall be considered a criminal offense, which shall be punishable by a fine of no more than \$1,000 and/or by imprisonment for not more than ninety (90) days.

(2) Civil Offense. Any violation of this Article shall also be considered a civil ordinance violation punishable by a fine of no less than \$200 and no more than \$500 and civil forfeiture of the weapon as provided below.

(3) Forfeiture. Upon probable cause that a person is in violation of this provision, a law enforcement officer may seize the weapon involved in the violation. The person from whom the weapon is seized, or the owner of the weapon (if different), may appeal the forfeiture of the weapon within thirty (30) days of the seizure to the Vermont Superior Court, Civil Division, pursuant to Chapter 102 of Title 12 of the Vermont Rules of Civil Procedure or Rule 74 of the Vermont Rules of Civil Procedure. In any appeal, the burden of proof shall rest upon the City to establish the violation by a preponderance of the evidence. If the City fails to establish the required burden of proof, the items shall be returned to the person from whom they were seized. If no appeal is taken within thirty days, or if the City prevails in the superior court proceedings, the items so seized shall become the property of the City of Burlington.