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

Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

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6 CHARTER CHANGES CONCERNING BAN ON FIREARMS
7 IN ANY ESTABLISHMENT WITH A LIQUOR LICENSE
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13 **CITY OF BURLINGTON**

14 In the year Two Thousand Thirteen.....

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

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17 That WHEREAS, under current federal and Vermont laws, there are no limits on the ability of a person to
18 carry a firearm into a bar or other establishment with a liquor license; and

19 WHEREAS, the mixing of alcohol and firearms often leads to volatile situations endangering public
20 safety; and

21 WHEREAS, laws forbidding the carrying of firearms in certain places, particularly outside of the home
22 where the need for defense of self, family, and property is most acute, are consistent with the U.S. Supreme
23 Court’s interpretation of the Second Amendment, as noted in the 2008 case of *District of Columbia v. Heller*¹;
24 and

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

28 WHEREAS, to date, the Vermont General Assembly has failed to prohibit the possession of firearms
29 in bars at the state level; and

30 WHEREAS, the City Council of Burlington has determined that the presence of firearms in bars is a
31 serious risk to public health and safety, particularly within the concentrated, urban population of the City of
32 Burlington;

33 NOW, THEREFORE, BE IT RESOLVED that the City Council of Burlington hereby authorizes the
34 Charter Change Committee, with the assistance of the City Attorney and Chief Administrative Officer, to
35 prepare a proposal to amend the municipal charter of the City of Burlington to add to the City Charter a
36 section entitled “Article 99 General Weapons Requirements §510 Ban on Firearms in Any Establishment with
37 a First Class Liquor License,” consistent with the document attached hereto; and

38 BE IT FURTHER RESOLVED that the Charter Change Committee shall bring that final ballot
39 language back to this Council no later than the second Council meeting in November, so that public hearings

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

41 **Resolution Relating to** CHARTER CHANGES CONCERNING BAN ON
42 FIREARMS IN ANY ESTABLISHMENT WITH A
43 LIQUOR LICENSE
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45 may be held in sufficient time for consideration by the legal voters of the City of Burlington at the Annual
46 City Meeting in March, 2014.

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51 lb/EBlackwood/c: Resolutions 2013/Charter Changes Concerning Ban on Firearms in any Establishment with a Liquor License
52 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 to Article 99 General Weapons Requirements:

§ 510. Ban on Firearms in Any Establishment with a First Class Liquor License.

(a) **Ban.** Within the City of Burlington, no person may carry or possess a firearm , as defined by Section 4016(a)(3) of Chapter 13 of the Vermont Statutes Annotated, in any building or on any real property or parking area under the ownership or control of an establishment licensed to serve alcohol on its premises.

(b) **Exceptions.** 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;
- (4) the owner or operator of such establishment, as long as that person is not prohibited from possessing or carrying that weapon under any other federal, state, or local law.

(c) 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.