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2 **Resolution Relating to**

RESOLUTION
Sponsor(s): Councilors Siegel,
Ayres, Blais

Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

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6 CHARTER CHANGES CONCERNING
7 SAFE STORAGE OF FIREARMS

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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, storing firearms locked and unloaded can help keep guns out of the hands of young
18 people and persons prohibited from possessing firearms; and

19 WHEREAS, requiring firearms to be stored in a safe depository may help prevent accidents; and

20 WHEREAS, requiring firearms to be stored in a safe depository when outside of the person’s
21 immediate control is consistent with the U.S. Supreme Court’s interpretation of the Second Amendment,
22 which noted in the 2008 case of *District of Columbia v. Heller* that its analysis does not “suggest the
23 invalidity of laws regulating the storage of firearms to prevent accidents¹; and

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

27 WHEREAS, to date, the Vermont General Assembly has failed to require the safe storage of
28 firearms throughout the state; and

29 WHEREAS, the City Council of Burlington has determined that the failure to require safe storage
30 is a serious risk to public health and safety, particularly within the concentrated, urban population of the
31 City of Burlington;

32 NOW, THEREFORE, BE IT RESOLVED that the City Council of Burlington hereby authorizes
33 the Charter Change Committee, with the assistance of the City Attorney and Chief Administrative
34 Officer, to prepare a proposal to amend the municipal charter of the City of Burlington to add to the City
35 Charter a section entitled “Article 99 General Weapons Requirements §512 Safe Storage,” consistent with
36 the document attached hereto; and

37 BE IT FURTHER RESOLVED that the Charter Change Committee shall bring that final ballot
38 language back to this Council no later than the second Council meeting in November, so that public
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¹ *District of Columbia v. Heller*, 554 U.S. 570, 632 (2008).

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Resolution Relating to CHARTER CHANGES CONCERNING
SAFE STORAGE OF FIREARMS

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 Safe Storage of Firearms
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:

§ 512. Safe Storage.

(a) Within the City of Burlington, no person who possesses a firearm, as defined in 13 V.S.A. §4016(a)(3), shall store or otherwise leave the firearm outside of his or her immediate possession or control without having first securely locked the firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon.

(b) A “safe storage depository” shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination, or other unlocking mechanism, so as to prevent an unauthorized person from obtaining access to the weapon.

(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 \$2,500 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 \$1000 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.

(4) Determination of Penalty. In determining the appropriate penalty, the court shall take into account all relevant factors, including the presence of minors at the location and time of the offense.