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2 **Resolution Relating to**

RESOLUTION
Sponsor(s): Councilors Siegel,
Ayres, Blais: Charter Change Com.
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

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6 MARCH 4, 2014 ANNUAL CITY MEETING--PROPOSED
7 CHARTER CHANGE RE POLICE SEIZURE OF WEAPONS
8 DURING DOMESTIC ABUSE INCIDENT
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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 the following question be placed on the ballot of the Annual City Meeting to be held on
18 March 4, 2014:

19 "Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended be further
20 amended to add Article 99. General Weapons Requirements Sec. 511 entitled "Police Seizure of
21 Weapons During Incident" thereto to read as follows:

22 Sec. 511. Police Seizure of Weapons During Incident.

23 (a) This act expressly supersedes 24 V.S.A. §§ 2291(8) & 2295 and authorizes the City of
24 Burlington to regulate the possession and control of firearms in the manner indicated
25 below.

26 (b) Whenever, within the City of Burlington, a police officer has probable cause to believe
27 that a person has been the victim of domestic abuse, as defined in Chapter 21 of Title 15
28 of the Vermont Statutes Annotated, the officer may confiscate any firearm, ammunition,
29 or deadly or dangerous weapon, as defined in 13 V.S.A. §4601, in the immediate control
30 or possession of the person alleged to be the abuser.

31 (c) A person whose property has been seized may request its return, and the police shall
32 return the property within five (5) days of receiving the request, except in the following
33 circumstances:

34 (1) if the property is being held as evidence for a legal proceeding connected with the
35 domestic violence complaint; or

36 (2) after a hearing, a court order is issued denying the request or prohibiting the
37 owner from possessing such property.

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

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

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44 **Resolution Relating to**

MARCH 4, 2014 ANNUAL CITY MEETING--
PROPOSED CHARTER CHANGE RE POLICE
SEIZURE OF WEAPONS DURING DOMESTIC
ABUSE INCIDENT

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

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

62 AND, BE IT FURTHER RESOLVED that pursuant to 17 V.S.A. Sec. 2645(a)(7) the
63 City Council hereby determines that the proposed charter amendment is too long or unwieldy to
64 be shown in the amended form and determines that the printed ballot shall utilize a short form
65 question to read: “Shall the Burlington City Charter be amended to add Article 99. General
66 Weapons Requirements Sec. 511 entitled “Police Seizure of Weapons During Incident,” which
67 provides that a police officer may confiscate a weapon in the immediate control or possession of
68 an alleged domestic abuser if the officer has probable cause to believe that domestic abuse has
69 occurred and which provides for provisions on the return of the firearm and for penalties,
70 including forfeiture of the weapon, for a violation?”

71 AND, BE IT FURTHER RESOLVED that in accordance with 17 V.S.A. Sec. 2645,
72 public hearings on the above-proposed amendment of the Burlington City Charter shall be held
73 on Friday, January 17, 2014 at 12:00 noon and on Monday, January 27, 2014 at 7:00 p.m. in
74 Contois Auditorium, City Hall, Burlington, Vermont.

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76 * Material underlined added.