

**RESOLUTION**

Sponsor(s): Councilors Siegel,  
Ayres, Blais: Charter Change Com.

Introduced: \_\_\_\_\_  
Referred to: \_\_\_\_\_  
Action: \_\_\_\_\_  
Date: \_\_\_\_\_  
Signed by Mayor: \_\_\_\_\_

**Resolution Relating to**

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

**CITY OF BURLINGTON**

In the year Two Thousand Thirteen .....  
Resolved by the City Council of the City of Burlington, as follows:

That the following question be placed on the ballot of the Annual City Meeting to be held on  
March 4, 2014:

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

Sec. 511. Police Confiscation/Seizure During Incident.

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

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

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

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

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

(d) A person who fails to turn over a weapon in the immediate control or possession of an  
alleged abuser when requested by a police officer pursuant to subparagraph (b) above

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47 may be subject to the following penalty:

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

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

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

65 AND, BE IT FURTHER RESOLVED that the printed ballot utilize a short form question  
66 to read: "Shall the Burlington City Charter be amended to add Article 99. General Weapons  
67 Requirements Sec. 511 entitled "Police Confiscation/Seizure of Weapons During Domestic  
68 Abuse Incident," which provides that a police officer may confiscate a weapon in the immediate  
69 control or possession of an alleged abuser if the officer has probable cause to believe that  
70 domestic abuse has occurred and which provides penalties, including forfeiture of the weapon,  
71 for failure to submit to confiscation?"

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

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85 \* Material underlined added.

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88 lb/EBlackwood/c: Resolutions 2013/Charter Change re Police Confiscation-Seizure of Weapons during Domestic Abuse  
89 Incident. Sec. 511 (3-04-14 Annual City Meeting)  
90 11/14/13; 12/3/13