

1

H.508

2

Introduced by Representatives Morrissey of Bennington, Bates of Bennington,

3

Carroll of Bennington, and Corcoran of Bennington

4

Referred to Committee on

5

Date:

6

Subject: Municipal government; municipal charters; Town of Bennington;

7

amendments

8

Statement of purpose of bill as introduced: This bill proposes to approve

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amendments to the charter of the Town of Bennington.

10

An act relating to approval of amendments to the charter of the Town of

11

Bennington

12

It is hereby enacted by the General Assembly of the State of Vermont:

13

Sec. 1. CHARTER AMENDMENT APPROVAL

14

The General Assembly approves the amendments to the charter of the Town

15

of Bennington as set forth in this act. Voters approved the proposals of

16

amendment on June 5, 2018.

1 Sec. 2. 24 App. V.S.A. chapter 103 is amended to read:

2 CHAPTER 103. TOWN OF BENNINGTON

3 Preamble

4 The people of Bennington reaffirm faith in Government of the people, by
5 the people, and for the people and describe this government in a charter with
6 provision to review and amend. The charter of the Town of Bennington
7 reflects concern to improve the quality of life for all people and to improve the
8 operation of Town government.

9 * * *

10 § 101. GENERAL LAW APPLIES

11 (a) All provisions of the Constitution and laws of the State relating to
12 towns and villages shall apply to the Town of Bennington, except as modified
13 by this charter;

14 (b) The Town of Bennington shall have all the powers and functions
15 conferred upon towns and villages by the Constitution and ~~general~~ laws of ~~this~~
16 the State and shall also have all implied powers necessary to implement such
17 powers and functions;

18 (c) The powers and functions conferred upon the Town of Bennington by
19 this charter shall be in addition to the powers and functions conferred upon the
20 Town by the laws now in force or hereafter enacted of the State. Nothing in
21 this charter shall be construed as a limitation upon such powers and functions.

1 § 102. ~~ADDITIONAL TOWN POWERS~~

2 ~~In addition to powers otherwise conferred by law, the Town of Bennington~~
3 ~~is authorized to adopt, amend, repeal, and enforce ordinances:~~

4 ~~(a) relating to collection and removal of garbage, ashes, rubbish, refuse,~~
5 ~~waste, and scrap by the Town and establishment of rates to be paid to the~~
6 ~~Town for such service;~~

7 ~~(b) relating to construction and alteration of public and private buildings~~
8 ~~and the use thereof, including establishment of minimum standards for~~
9 ~~plumbing, heating, and wiring, so as to prevent hazardous and dangerous~~
10 ~~conditions, fires, and explosions by precautionary regulations and inspection;~~

11 ~~(c) relating to the use of firearms in settled areas;~~

12 ~~(d) relating to the packaging, marketing, and handling of produce and~~
13 ~~other foodstuffs;~~

14 ~~(e) relating to the prevention of pollution of streams, ponds, and other~~
15 ~~waterways within the Town. [Repealed.]~~

16 * * *

17 § 104. RECALL

18 * * *

19 (b) A recall petition, clearly stating cause, signed by at least 30 percent of
20 the legal voters of the Town, and bearing their addresses, shall be filed with the
21 Select Board ~~within 15 calendar days of its issue.~~ The Select Board upon

1 receipt of a valid petition shall, after 60 calendar days, hold a special election,
2 with voting by Australian Ballot, to consider the recall of an elected Town
3 officer. When such a petition is approved by ~~a majority of~~ two-thirds of the
4 ballots cast at such special election, the officer named in the petition shall
5 thereupon cease to hold ~~his/her~~ his or her office, and the office shall be
6 considered vacant until filled by a special election to be held within 60 days.

7 * * *

8 § 202. APPOINTIVE OFFICERS

9 (a) The Select Board ~~members~~ shall ~~annually~~ appoint a ~~Constable and other~~
10 officers required by law or this charter, including a Board of not ~~less~~ fewer
11 than three nor more than five listers to serve for such terms as the Select Board
12 ~~members decide, but not less than one nor more than five years, such~~
13 ~~appointments to be made as vacancies occur in the elected Board of Listers~~
14 decides.

15 (b) The Select Board ~~members~~ may create such appointive officers not
16 provided for by this charter or required by law as ~~they deem~~ it deems to be in
17 the best ~~interest~~ interests of the Town.

18 § 203. COMPENSATION

19 (a) Compensation paid to the Select Board members shall be set by the
20 voters at Town meeting.

1 (b) Subject to subsection (a) of this section, the Select Board ~~members~~ shall
2 fix the compensation ~~to~~ of all elective officers and of all officers appointed by
3 the Select Board.

4 (c) The Town Manager, under policies approved by the Select Board
5 ~~members~~, shall fix the compensation of all other officers and employees whose
6 compensation is not fixed by the Select Board pursuant to subsection (b) of this
7 section.

8 * * *

9 § 301. SELECT BOARD ~~MEMBERS~~; THE LEGISLATIVE BODY

10 The Select Board shall constitute the legislative body of the Town of
11 Bennington and shall have all powers and authority necessary for the
12 performance of the legislative function.

13 § 302. ADDITIONAL POWERS OF THE SELECT BOARD ~~MEMBERS~~ TO
14 ADOPT ORDINANCES

15 (a) In addition to powers otherwise conferred by law, the Select Board
16 ~~members are~~ is authorized to adopt, amend, repeal, and enforce ordinances:

17 (1) regulating the parking and operation of motor vehicles; including,
18 despite any contrary provisions of law, the establishment of speed zones
19 ~~wherein~~ where the limit is less than 20 miles per hour, all as may be required
20 by the safety and welfare of the inhabitants of the Town;

1 (2) relating to regulation, licensing, and prohibition of the storage and
2 accumulation of junk cars, garbage, ashes, rubbish, refuse, waste, ~~and~~ scrap,
3 and solid waste as defined in 10 V.S.A. § 6602(2) and the collection, removal,
4 and disposal of such materials; including the collection and removal of the
5 materials by the Town and the establishment of rates to be paid to the Town for
6 such service;

7 * * *

8 (4) relating to the keeping of dogs, cats, and other domestic animals ~~in~~
9 settled areas;

10 (5) relating to construction and alteration of public and private buildings
11 and the use thereof, including the establishment of minimum standards for
12 plumbing, heating, and wiring;

13 (6) relating to the use of firearms in settled areas;

14 (7) relating to the packaging, marketing, and handling of produce and
15 other foodstuffs;

16 (8) relating to the prevention of pollution of streams, ponds, and other
17 waterways within the Town;

18 (9) relating to intrusive technologies, including drones, in order to
19 provide a balance between recreational interests, commercial opportunity, law
20 enforcement, and the protection of fundamental rights of citizens.

1 (b) The Town may make, establish, alter, amend, or repeal any other
2 bylaws, rules, and ordinances that it may deem necessary for the well-being of
3 the Town and that are not in conflict with the Constitution or laws of the State
4 or the United States.

5 § 303. FURTHER POWERS OF SELECT BOARD MEMBERS

6 In addition to powers otherwise conferred by law, the Select Board
7 members shall also have the power to:

8 (1) organize, and from time to time reorganize, the Fire Department
9 under the supervision of a coordinating committee formed by the Select Board
10 from its members; such Department shall be a volunteer department ~~and the,~~
11 unless an affirmative vote of the members of the Fire Department authorizes a
12 transition to a paid or combination paid and volunteer department as set forth
13 in a transition plan proposed by the Select Board working with a committee
14 formed from members of the Fire Department;

15 ~~(2) Select Board shall have authority to~~ continue any existing contract
16 with a volunteer fire department or to enter on behalf of the Town into
17 contracts with other volunteer fire departments to provide additional fire
18 protection to the inhabitants;

19 ~~(2)(3) create departments not now existing,~~ consolidate, or dissolve
20 departments as necessary or relevant for the performance of municipal
21 services;

1 ~~(3)~~(4) create, consolidate, or dissolve commissions and committees ~~not~~
2 ~~now existing~~ as necessary or relevant and appoint the members thereof;

3 ~~(4)~~(5) ~~provide for and shall~~ provide on an annual basis an independent
4 audit of all Town financial records by a certified public accountant;

5 ~~(5)~~(6) inquire into the conduct of any officer, commission, or
6 department and investigate any and all municipal affairs;

7 ~~(6)~~(7) discharge all duties heretofore devolving on the Town Agent by
8 general law and hire attorneys on behalf of the Town; and

9 ~~(7)~~(8) establish an adequate number of polling places within the Town
10 as required for the convenience of the Town voters and without regard to
11 election district boundaries, to the end that election expenses may be lessened
12 and confusion among the voters as to the proper place for them to vote may be
13 avoided; however, one such polling place shall be in North Bennington and the
14 central polling place shall be within the boundaries of the former Village of
15 Bennington.

16 § 304. ORGANIZATION OF SELECT BOARD

17 (a) The Chair shall be the head of Town government for all ceremonial
18 purposes.

19 (b) ~~Forthwith after~~ After the annual meeting of the town, the Select Board
20 members shall organize and elect a Chair and Vice Chair.

1 terms, and upon such conditions as they may determine. Notwithstanding the
2 above, the Town Manager position shall continue to be subject to section 406
3 of this charter. The Select Board shall review the Town Manager's
4 performance annually.

5 § 402. TOWN MANAGER NONPARTISAN

6 (a) The Town Manager shall be chosen solely on the basis of ~~his/her~~ his or
7 her executive, administrative, and professional qualifications.

8 (b) The Town Manager shall not take part in the organization or direction
9 of a political party, serve as a member of a party committee, nor be a candidate
10 for election to any public office.

11 § 403. OATH AND BOND

12 Before entering upon his or her duties, the Town Manager shall be sworn to
13 the faithful performance of his or her duties by the Town Clerk and shall ~~give a~~
14 ~~bond to the Town~~ be bonded in such amount and with such sureties as the
15 Select Board ~~members~~ may require.

16 § 404. DUTIES FOR MANAGER

17 (a) The Town Manager shall be the Chief Executive Officer of the Town
18 and shall:

19 (1) ~~carry~~ Carry out the policies established by the Select Board, to
20 whom the Town Manager shall be ~~responsible~~ accountable.

1 ~~(b)(2) The Manager shall attend~~ Attend all meetings of the Select Board,
2 except when his or her compensation or removal is being considered, shall
3 keep the Select Board ~~members~~ informed of the financial condition and future
4 needs of the Town, and shall make such other reports as may be required by
5 law, requested by the Select Board ~~members~~, or deemed by him or her to be
6 advisable.

7 ~~(e)(3) He or she shall perform~~ Perform all other duties prescribed by this
8 charter; or required by law; or by resolution of the Select Board ~~members~~.

9 ~~(d)(4) The Manager shall be~~ Be an ex-officio member of all standing
10 committees except the ~~Zoning~~ Development Review Board, ~~but may and shall~~
11 not vote.

12 ~~(e)(5) The Manager shall prepare~~ Prepare an annual budget, submit it to the
13 Select Board ~~members~~, and be responsible for its administration after adoption.

14 ~~(f)(6) The Manager shall compile~~ Compile for general distribution at the
15 end of each fiscal year a complete report on the finances and administrative
16 activities of the Town for the year.

17 ~~(g)(7) The Manager shall provide~~ Provide to the Select Board a monthly
18 financial statement, with a copy to the Town Treasurer.

19 ~~(h)(8) The Manager shall perform~~ Perform all duties now conferred by law
20 on the Road Commissioner within all areas of the Town, except within such

1 villages as may vote not to surrender their charters under this charter,
2 notwithstanding the provisions of 24 V.S.A. § 1236(5).

3 ~~(i)(9) The Manager shall perform~~ Perform all duties now conferred by law
4 on the Collector of Delinquent Taxes.

5 ~~(j)(10) The Manager, under~~ Under policies approved by the Select Board
6 ~~members, shall,~~ be the General Purchasing Agent of the Town and purchase all
7 equipment and supplies and contract for services for every department
8 pursuant to the purchasing and bid policies approved by the Select Board.

9 ~~(k)(11) The Manager shall be~~ Be responsible for the system of accounts.

10 ~~(l)(12) The Manager shall be~~ Be responsible for the operation of all
11 departments, including ~~by specification~~ the Police and Fire Departments.

12 ~~(m)(13) The Manager, under~~ Under policies approved by the Select Board
13 ~~members, shall~~ have exclusive authority to appoint, fix the salaries of, suspend,
14 and remove, all officers and employees except those who are elected or who
15 are appointed by the Select Board ~~members~~. When the ~~managership~~ Town
16 Manager position is vacant, this authority shall be exercised by the Select
17 Board.

18 ~~(n)(b) The~~ Town Manager may, when advisable or proper, delegate to
19 subordinate officers and employees of the Town, any duties conferred upon
20 him or her.

1 § 405. COMPENSATION

2 The Town Manager shall receive such compensation as may be fixed by the
3 Select Board ~~members~~.

4 § 406. REMOVAL

5 (a) On ~~90 days~~ days' written notice from the Select Board, the Town
6 Manager may be removed without cause by a majority of the Select Board
7 ~~members so voting~~ at a meeting called for the purpose of voting on removal.
8 During the ~~90-day~~ 90-day period, the Town Manager may be suspended with
9 pay.

10 (b) The Select Board ~~members~~ may adopt at any time a resolution stating
11 ~~their~~ its intention to remove the Town Manager and the reasons therefore, a
12 copy of which shall be sent to the Town Manager. The Town Manager may,
13 within 10 days after such notice is sent, request a hearing, ~~which~~. The hearing
14 shall be held by the Select Board ~~members~~ not less than 10 days nor more than
15 20 days from the date of such request, after which the Select Board ~~members~~
16 may dismiss the Town Manager. If no request for a hearing is filed in
17 accordance with the foregoing, the Select Board ~~members~~ may dismiss the
18 Town Manager immediately. During the period after the resolution of
19 intention is adopted and until the Town Manager's dismissal, he or she may be
20 suspended with pay.

21 * * *

1 § 501. TAXES

2 Taxes shall be assessed by the Town based on the fair market value of real
3 ~~and personal~~ property, in accordance with State law.

4 § 502. ~~DISCOUNTS ELIMINATION~~ WATER AND SEWER FEES

5 ~~At such time as the discounts given on the tax rate to those who do not have~~
6 ~~water or sewer provided by or available from the Town may be eliminated, all~~
7 All costs of operation of the water and sewer systems, and previously including
8 incurred debt, shall be paid from funds established for those purposes and
9 funded by user fees, as may be established from time to time, by the Select
10 Board, and ~~applied against users of water and sewer services only~~ charged to
11 owners of real estate that is serviced by municipal water and sewer.

12 § 503. FAIR MARKET VALUE OF REAL ESTATE

13 * * *

14 (c) When the fair market value of real estate is finally determined by a
15 ~~State board or appraisers~~ the Director of Property Valuation and Review (PVR)
16 or by a court having jurisdiction, then the value so fixed shall be the fair
17 market value of such real estate for the year for which such appeal is taken and
18 for the ensuing two years, unless the taxpayer's property is altered materially;
19 is damaged; or if the Town in which it is located has undergone a complete
20 revaluation of all taxable real estate, in the event of which, such fair market
21 value may be changed.

1 § 504. SPECIAL ASSESSMENTS

2 Despite any contrary provision in general law, the Select Board ~~members~~
3 may in ~~their~~ its sole discretion make a special assessment upon real estate for
4 the installation or construction of a public improvement, such special
5 assessment to be such proportion of the total cost of such improvement as the
6 benefit to a parcel of real estate bears to the total benefit resulting to the public
7 in general.

8 § 505. TAX WITHIN BENNINGTON FIRE DISTRICT NO. 1

9 (a) The tax assessed by the Town on the grand list shall be reduced with
10 respect to real estate in the Bennington Rural Fire District No. 1. This
11 reduction shall be in direct proportion to the amount of the tax assessed by the
12 Town ~~which~~ that is used by the Town to provide fire protection services to
13 property not included in the Bennington Rural Fire District No. 1.

14 (b) The purpose of this ~~amendment~~ section is to make substantially uniform
15 the taxes assessed throughout the Town for fire protection furnished by all fire
16 departments in the Town. This tax reduction shall remain in effect until such
17 time as the Bennington Rural Fire District No. 1 dissolves itself or merges with
18 the Town of Bennington, in accordance with the charter of the Town of
19 Bennington.

1 § 506. ~~CREATION OF~~ BENNINGTON DOWNTOWN DISTRICT

2 There is ~~hereby created~~ shall be in the Town of Bennington a ~~special~~
3 district, ~~to be known as~~ the Bennington Downtown Improvement District
4 (District), ~~which shall be that area~~ set forth on a map approved by the voters of
5 Bennington and filed with the Town Clerk. The area of the District may be
6 changed upon a majority vote of the ~~legal voters at an annual or special~~
7 ~~meeting~~ Select Board after a minimum of one public hearing duly warned.
8 Following the public hearing, the Select Board may approve the change to the
9 area of the District at a duly called regular or special Select Board meeting.
10 The change shall become effective upon approval.

11 * * *

12 § 508. PURPOSES AND POWERS

13 (a) The District is created for the general purpose of maintaining and
14 improving the economic, social, cultural, and environmental vitality and
15 quality of the Town of Bennington (in particular, the District created by this
16 section ~~507~~ 506 of this charter); to promote the Town and the District as a
17 regional retail, commercial, and service center; and to serve as an advocate for
18 the orderly development of the District in order to encourage expansion of the
19 retail, commercial, and service base of the District and the Town by attracting
20 new business and investment.

1 (b) The rights, powers, and duties of the District shall be exercised by the
2 Select Board and shall be broadly construed to accomplish the purposes set
3 forth above and shall include the following:

4 (1) To ~~advertise and~~ promote the ~~Improvement~~ District.

5 * * *

6 § 509. ANNUAL BUDGET

7 The Town Manager or other person designated by the Select Board shall
8 submit each year an operating budget of anticipated expenditures and revenues
9 to the Select Board for approval for the next fiscal year. In the event the Select
10 Board does not approve the budget as submitted, the Select Board shall return
11 the budget ~~forthwith to the Town Manager~~ with its recommendations for ~~the~~
12 ~~Town Manager's~~ reconsideration. Appropriations other than from
13 contributions, grants, and income shall be raised solely through District taxes
14 ~~which that~~ shall be assessed and collected as a tax on property as provided for
15 in section 515 of this charter. The Select Board may borrow money in
16 anticipation of District taxes.

17 § 510. DISTRICT TAXES

18 (a) District taxes are charges levied upon the owners of taxable properties
19 located in the District, ~~excepting properties used exclusively for residential~~
20 ~~purposes, which~~ except for owner-occupied residential properties. The District

1 taxes shall be used to defray the expenses incurred ~~in connection with~~ for the
2 operation, maintenance, and repair of the District.

3 * * *

4 (d) In the case of any property used for both residential and nonresidential
5 purposes within the District as of April 1, the Board of Listers (Board) shall
6 adjust the listed value for the purposes of determining the District tax under
7 this section to exclude the value of that portion of the property used for owner-
8 occupied residential purposes. The Board shall determine the adjusted grand
9 list value of the business portion of the property and give notice of the same as
10 provided under 32 V.S.A. chapter 131. Any property owner may file a
11 grievance with the Board and appeal the decision of the Board as provided for
12 under 32 V.S.A. chapter 131; however, the filing of an appeal of the
13 determination of the Board and pendency of the appeal shall not vacate the lien
14 on the property assessed, and the District taxes must be paid and continue to be
15 paid as they become due.

16 § 511. LOCAL OPTION TAX

17 (a) If the Select Board by a majority vote recommends, the voters of the
18 Town may, at an annual or special meeting warned for the purpose, by a
19 majority vote of those present and voting, assess any or all of the following:

20 (1) a one percent meals tax;

21 (2) a one percent rooms tax;

1 accordance with the provisions of the ordinance in force therein and the
2 general law. If no Town Administrative Officer ~~and Board of Adjustment~~ have
3 or Development Review Board has then been appointed by the ~~legislative body~~
4 Select Board, ~~that body~~ the Select Board shall ~~forthwith~~ make such
5 appointment.

6 § 604. COMPREHENSIVE TOWN ORDINANCE

7 ~~The billboard zoning ordinance enacted for the area outside the villages in~~
8 ~~the Town shall continue to be administered by the Town officials having~~
9 ~~charge of zoning.~~ When ~~such~~ Town officials having charge of zoning acquire
10 jurisdiction of the zoning ordinance in other zoned areas as ~~herein~~ provided in
11 this section, ~~said the ordinances, together with said billboard zoning~~
12 ~~ordinance~~, shall be deemed to be part of a general ~~town~~ Town zoning
13 ordinance duly and legally enacted in accordance with a comprehensive plan.
14 ~~Such~~ The general ordinance shall be subject to repeal, amendment, or
15 alteration by the Town ~~under the application provisions of law~~.

16 * * *

17 § 806. CHARTER REVIEW COMMITTEE

18 ~~The~~ At least once every five years, the Select Board ~~may~~ shall appoint a
19 Charter Review Committee of not ~~less~~ fewer than five nor more than nine
20 members ~~of~~ from among the inhabitants residents of the Town, ~~said~~. The
21 Committee ~~to~~ shall review the charter and recommend ~~such~~ any changes

1 ~~therein~~ as it finds necessary or advisable for the purpose of improving the
2 operation of Town government. ~~Said~~ The Committee shall prepare a written
3 report of ~~their recommended amendments to the charter~~ its recommendations
4 in time for ~~same~~ those recommendations to be submitted to the Select Board
5 for review no later than one year after the appointment of ~~said~~ the Committee.
6 At the discretion of the Select Board ~~such amendments,~~ the recommendations
7 may be warned for ballot vote at an annual or special Town meeting to be held
8 no later than one year after the submission of the report. The Select Board
9 shall provide in ~~their~~ its budget for any year when a Charter Review
10 Committee is appointed, ~~a sum of money~~ funding for ~~said~~ the Committee.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on passage.