

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House  
3 Bill No. 508 entitled “An act relating to approval of amendments to the charter  
4 of the Town of Bennington” respectfully reports that it has considered the  
5 same and recommends that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. CHARTER AMENDMENT APPROVAL

8 The General Assembly approves the amendments to the charter of the Town  
9 of Bennington as set forth in this act. Voters approved the proposals of  
10 amendment on June 5, 2018.

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

12 CHAPTER 103. TOWN OF BENNINGTON

13 Preamble

14 The people of Bennington reaffirm faith in Government of the people, by  
15 the people, and for the people and describe this government in a charter with  
16 provision to review and amend. The charter of the Town of Bennington  
17 reflects concern to improve the quality of life for all people and to improve the  
18 operation of Town government.

19 \* \* \*

20 § 101. GENERAL LAW APPLIES

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

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

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

12 § 102. ~~ADDITIONAL TOWN POWERS~~

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

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

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

1 ~~(e) relating to the use of firearms in settled areas;~~

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

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

6 \* \* \*

7 § 104. RECALL

8 \* \* \*

9 (b) A recall petition, clearly stating cause, signed by at least 30 percent of  
10 the legal voters of the Town, and bearing their addresses, shall be filed with the  
11 Select Board ~~within 15 calendar days of its issue.~~ The Select Board upon  
12 receipt of a valid petition shall, after 60 calendar days, hold a special election,  
13 with voting by Australian Ballot, to consider the recall of an elected Town  
14 officer. When such a petition is approved by a ~~majority~~ of two-thirds of the  
15 ballots cast at such special election, the officer named in the petition shall  
16 thereupon cease to hold ~~his/her~~ his or her office, and the office shall be  
17 considered vacant until filled by a special election to be held within 60 days.

18 \* \* \*

19 § 202. APPOINTIVE OFFICERS

20 (a) The Select Board ~~members~~ shall ~~annually~~ appoint a ~~Constable and other~~  
21 officers required by law or this charter, including a Board of not ~~less~~ fewer

1 than three nor more than five listers to serve for such terms as the Select Board  
2 ~~members decide, but not less than one nor more than five years, such~~  
3 ~~appointments to be made as vacancies occur in the elected Board of Listers~~  
4 decides.

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

8 § 203. COMPENSATION

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

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

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

18 \* \* \*

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

1 The Select Board shall constitute the legislative body of the Town of  
2 Bennington and shall have all powers and authority necessary for the  
3 performance of the legislative function.

4 § 302. ADDITIONAL POWERS OF THE SELECT BOARD ~~MEMBERS~~ TO  
5 ADOPT ORDINANCES

6 In addition to powers otherwise conferred by law, the Select Board  
7 ~~members are~~ is authorized to adopt, amend, repeal, and enforce ordinances:

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

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

18 \* \* \*

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

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

4           (6) pursuant to 24 V.S.A. § 2291(8), relating to the use or discharge, but  
5           not possession, of firearms within the Town or specified portions thereof,  
6           provided that an ordinance adopted under this subdivision shall be consistent  
7           with 24 V.S.A. § 2295 and shall not prohibit, reduce, or limit discharge at any  
8           existing sport shooting range, as that term is defined in 10 V.S.A. § 5227.

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

11          (8) relating to the prevention of pollution of streams, ponds, and other  
12          waterways within the Town.

13          § 303. FURTHER POWERS OF SELECT BOARD MEMBERS

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

16                 (1) organize, and from time to time reorganize, the Fire Department  
17                 under the supervision of a coordinating committee formed by the Select Board  
18                 from its members; such Department shall be a volunteer department ~~and the,~~  
19                 unless an affirmative vote of the members of the Fire Department authorizes a  
20                 transition to a paid or combination paid and volunteer department as set forth

1 in a transition plan proposed by the Select Board working with a committee  
2 formed from members of the Fire Department;

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

7 ~~(2)(3)~~ create departments not now existing, consolidate, or dissolve  
8 departments as necessary or relevant for the performance of municipal  
9 services;

10 ~~(3)(4)~~ create, consolidate, or dissolve commissions and committees ~~not~~  
11 ~~now existing~~ as necessary or relevant and appoint the members thereof;

12 ~~(4)(5)~~ provide for and shall provide on an annual basis an independent  
13 audit of all Town financial records by a certified public accountant;

14 ~~(5)(6)~~ inquire into the conduct of any officer, commission, or  
15 department and investigate any and all municipal affairs;

16 ~~(6)(7)~~ discharge all duties heretofore devolving on the Town Agent by  
17 general law and hire attorneys on behalf of the Town; and

18 ~~(7)(8)~~ establish an adequate number of polling places within the Town  
19 as required for the convenience of the Town voters and without regard to  
20 election district boundaries, to the end that election expenses may be lessened  
21 and confusion among the voters as to the proper place for them to vote may be

1 avoided; however, one such polling place shall be in North Bennington and the  
2 central polling place shall be within the boundaries of the former Village of  
3 Bennington.

4 § 304. ORGANIZATION OF SELECT BOARD

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

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

9 ~~(b)(c)~~ (c) The Chair of the Board or in ~~his/her~~ his or her absence, the Vice  
10 Chair, shall preside at all meetings of the Board and ~~such presiding officer~~  
11 shall be a voting member of the Board.

12 ~~(e)(d)~~ (d) When a vacancy occurs on the Select Board, except as provided in  
13 section 104, the remaining members may fill the vacancy by appointment of a  
14 registered voter of the Town, such appointment to be for the period until the  
15 next annual meeting, when the voters of the District shall fill the vacancy.

16 ~~(d)(e)~~ (e) The Board shall fix the time and place of its regular meetings to be  
17 held at least twice a month.

18 ~~(e)(f)~~ (f) The presence of four members shall constitute a quorum.

19 (g) The Select Board shall adopt Rules of Procedure for the conduct of its  
20 meetings. The Board shall review the Rules of Procedure annually.

21

\* \* \*



1 § 401. APPOINTED BY ~~SELECTORS~~ SELECT BOARD

2 The ~~Selector~~ Select Board members shall appoint a Town Manager for an  
3 ~~indefinite term~~ up to a three-year term that may be renewed for successive  
4 three-year terms, and upon such conditions as they may determine.

5 Notwithstanding the above, the Town Manager position shall continue to be  
6 subject to section 406 of this charter. The Select Board shall review the Town  
7 Manager's performance annually.

8 § 402. TOWN MANAGER NONPARTISAN

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

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

14 § 403. OATH AND BOND

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

19 § 404. DUTIES FOR MANAGER

20 (a) The Town Manager shall be the Chief Executive Officer of the Town  
21 and shall;

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

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

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

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

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

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

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

1        ~~(h)(8) The Manager shall perform~~ Perform all duties now conferred by law  
2        on the Road Commissioner within all areas of the Town, except within such  
3        villages as may vote not to surrender their charters under this charter,  
4        notwithstanding the provisions of 24 V.S.A. § 1236(5).

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

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

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

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

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

1        ~~(a)~~(b) The Town Manager may, when advisable or proper, delegate to  
2 subordinate officers and employees of the Town, any duties conferred upon  
3 him or her.

4        § 405. COMPENSATION

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

7        § 406. REMOVAL

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

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

1 intention is adopted and until the Town Manager’s dismissal, he or she may be  
2 suspended with pay.

3 \* \* \*

4 § 501. TAXES

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

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

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

15 § 503. FAIR MARKET VALUE OF REAL ESTATE

16 \* \* \*

17 (c) When the fair market value of real estate is finally determined by a  
18 ~~State board or appraisers~~ the Director of Property Valuation and Review (PVR)  
19 or by a court having jurisdiction, then the value so fixed shall be the fair  
20 market value of such real estate for the year for which such appeal is taken and  
21 for the ensuing two years, unless the taxpayer’s property is altered materially;

1 is damaged; or if the Town in which it is located has undergone a complete  
2 revaluation of all taxable real estate, in the event of which, such fair market  
3 value may be changed.

4 § 504. SPECIAL ASSESSMENTS

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

11 § 505. TAX WITHIN BENNINGTON RURAL FIRE DISTRICT NO. 1

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

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

1 the Town of Bennington, in accordance with the charter of the Town of  
2 Bennington.

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

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

10 Following the public hearing, the Select Board may approve the change to the  
11 area of the District at a duly called regular or special Select Board meeting.

12 The change shall become effective upon approval.

13 \* \* \*

14 § 508. PURPOSES AND POWERS

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

1 retail, commercial, and service base of the District and the Town by attracting  
2 new business and investment.

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

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

7 \* \* \*

8 § 509. ANNUAL BUDGET

9 The Town Manager or other person designated by the Select Board shall  
10 submit each year an operating budget of anticipated expenditures and revenues  
11 to the Select Board for approval for the next fiscal year. In the event the Select  
12 Board does not approve the budget as submitted, the Select Board shall return  
13 the budget ~~forthwith to the Town Manager~~ with its recommendations for ~~the~~  
14 ~~Town Manager's~~ reconsideration. Appropriations other than from  
15 contributions, grants, and income shall be raised solely through District taxes  
16 ~~which~~ that shall be assessed and collected as a tax on property as provided for  
17 in section ~~515~~ 510 of this charter. The Select Board may borrow money in  
18 anticipation of District taxes.

19 § 510. DISTRICT TAXES

20 (a) District taxes are charges levied upon the owners of taxable properties  
21 located in the District, ~~excepting properties used exclusively for residential~~



1 ~~purposes, which~~ except for owner-occupied residential properties. The District  
2 taxes shall be used to defray the expenses incurred ~~in connection with~~ for the  
3 operation, maintenance, and repair of the District.

4 \* \* \*

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

17 § 511. LOCAL OPTION TAX

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

21 (1) a one percent meals tax;



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

7 § 604. COMPREHENSIVE TOWN ORDINANCE

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

17 \* \* \*

18 § 806. CHARTER REVIEW COMMITTEE

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

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

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on passage.

14

15 (Committee vote: \_\_\_\_\_)

16

\_\_\_\_\_

17

Representative \_\_\_\_\_

18

FOR THE COMMITTEE