

**Governance Charter
Town of Montgomery
Draft – January 18th 2022
*Pending Adoption March 1st 2022***

§ 1. Statement of purpose

Under the authority granted by the General Assembly of the State of Vermont, this charter establishes certain guidelines with respect to organization and functioning of local Town government in the Town of Montgomery, Vermont.

§ 2. General law; application

Except when changed by the provisions of this charter, all provisions of the statutes of the State of Vermont relating to municipalities shall apply to the Town of Montgomery.

§ 3. Powers of the Town

(a) The Town of Montgomery shall have all the powers granted to towns and municipal corporations by the Constitution and laws of this State and this charter, together with all the implied powers necessary to carry into execution all the powers granted. The Town of Montgomery may enact ordinances not inconsistent with the Constitution and laws of the State of Vermont or with this charter, and impose penalties for violation thereof.

(b) The Town may acquire real property within or without its corporate limits necessary or convenient for any lawful purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or otherwise, consistent with the Constitution and laws of the State of Vermont and may sell, lease, mortgage, hold, manage, and control such property as its interest may require consistent with the Constitution and laws of the State by vote of a majority of the voters present and voting at a duly warned meeting. Once the voters have approved the sale, lease, or mortgage of property of the Town of Montgomery, the Selectboard shall have the full authority to sign all conveyances and legal documents in the name of the Town to complete the transaction.

(c) In this charter, no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers that the Town would have if the particular powers were not mentioned, unless this charter otherwise provides.

§ 4. Reservation of powers to the Town

Nothing in this charter shall be construed in any way to limit the powers and functions conferred on the Town of Montgomery, the Selectboard of the Town, or its elected and appointed officials by general or special enactments of State statutes or regulations in force or effect or hereafter enacted, and the powers and functions conferred by this charter shall be cumulative and in addition to the provisions of such general or special enactments unless this charter otherwise provides.

§ 5. Open meetings

Meetings of all Town boards and commissions shall be open and held in accordance with the general law of this State relating to public meetings. The record of all official proceedings shall be available for public inspection and copying as provided by the general law of this State.

§ 6. Generally

The officers of the Town of Montgomery shall be those provided by law for towns, except as otherwise provided by this charter. Officers shall have all the powers and duties necessary to carry out the provisions of this charter as well as those provided by law.

§ 7. Elected officers

The following officers of the Town and such other Town officers as are provided by law and previous vote of the electorate as to number, length of term, and manner of election at an annual meeting shall be elected from the floor, as required by law, unless otherwise stated, and shall include the following:

- (1) a Moderator to be elected by paper ballot from the floor, for a term of one year;
- (2) Selectboard members, three of whom shall serve staggered three-year terms and two of whom shall serve one-year terms;
- (3) listers, for terms of three years, staggered to ensure that no more than one term ends in any particular year;
- (4) other Town officers as the Town shall order as provided by law.

§ 8. Appointed officers

(a) The Selectboard may appoint, recommend, or approve the appointment of any Town officers for a term of one year from the date of the appointment unless otherwise specified in this section, following such notice and warning as required by this charter, to include the following:

- (1) Municipal Clerk;
- (2) Assistant Municipal Clerk;
- (3) Municipal Treasurer;
- (4) Tree Warden;
- (5) Emergency Management Director;
- (6) Fire Warden, for a term of five years;
- (7) Health Officer;
- (8) Road Commissioner, for a term of two years;

(9) other Town officers or municipal appointments that may be necessary as provided by law or otherwise authorized by this charter for the orderly and expeditious operations of Town government.

(b) All appointed Town officers shall serve at the pleasure of the Selectboard.

(c) All appointed Town officers shall be governed by the Town personnel policy.

§ 9. Alternate Town officers

The Selectboard is authorized to appoint people to serve as alternate Town officers in anticipation of disqualifications or unavailability, as needed.

§ 10. Relationship between and among Town officers

All Town officers, whether elected or appointed, shall exercise their duties and responsibilities independently unless otherwise provided by law.

§ 11. Terms of office

Each appointed officer shall serve from the date he or she is appointed and qualified until the end of the term. Each officer shall hold over until his or her successor is appointed and qualified. Each officer may succeed himself or herself, if the Selectboard so approves.

§ 12. General prohibition

No elected or appointed Town officer or employee of the Town shall be beneficially interested in any matter requiring the discharge of his or her public office. The purpose of this section is to prohibit the use of public office for financial or other advantage, whether direct or indirect, by any means or methods whatsoever.

§ 13. Specific conflicts

A Town officer shall be disqualified from any proceeding in which his or her impartiality might reasonably be questioned, including instances where:

(1) the Town officer or a near-relative or business associate has a property or financial interest that might be substantially affected, favorably or adversely, by the decision of the board, commission, or committee of which the Town officer is a member;

(2) the Town officer has a personal bias or prejudice toward any party; or

(3) the Town officer has previously expressed an opinion as to the proper disposition of a specific case or controversy involving the exercise of his or her discretion while acting in a quasi-judicial capacity, such as serving on the Development Review Board on permits and appeals or as a member of the Selectboard acting to lay out, alter, reclassify, or discontinue Town highways.

§ 14. Specific prohibition

A Town officer who is disqualified by virtue of a conflict of interest shall not vote upon, participate in the discussion of, or otherwise sit as a member of any board, commission, or

committee upon the matter from which he or she is disqualified. He or she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding.

§ 15. Announcing a conflict

If a Town officer recognizes that he or she might have a conflict of interest or if another person raises an objection to the participation of any Town officer, the Town officer or the other person shall state the nature of the conflict as soon as may be possible and the Town officer shall thereupon disqualify himself or herself from further participation if there is a conflict of interest.

§ 16. Determination of conflict by other than the Town officer

If a question of a member's disqualification under this charter is brought to the attention of any board, commission, or committee by any party or person or by another board, commission, or committee member and the member does not disqualify himself or herself, the board, commission, or committee shall consider the factual basis for the question and shall decide the matter by majority vote, the challenged member abstaining, before any other business is conducted. A formal vote shall be taken on every question of a conflict. Once the vote is taken, the board, commission, or committee shall return to the business before it, and no further time shall be devoted to the issue of that conflict. A full report of the issue and discussion shall be made in the minutes of the meeting.

§ 17. Appointment of alternate officers

The Selectboard may appoint an alternate Town officer to serve in place of a disqualified Town officer during the period of disqualification or unavailability.

§ 18. Notice of vacancy during unexpired term

In order to inform citizens of the Town and to afford them the opportunity to participate or serve in Town government, public notice shall be given of municipal vacancies resulting from resignation, death, disability, or change of residence from the Town of a Town officer on any board, commission, or committee or in other public office whether elected or appointed. Notice shall be made by posting the vacancy in the Town Clerk's office and two other public places in the Town, as well as the Town Website within 10 days of the creation of the vacancy. Notice shall provide for the right of any interested citizen to submit a written application to the appointing authority regarding the vacancy and to be personally interviewed by the appointing authority, if requested by the applicant, prior to the filling of the vacancy as provided by law.

§ 19. Newspaper publication

The Selectboard may publish notices of vacancies in a newspaper of general circulation in the Town.

§ 20. Local options tax

The Selectboard is authorized to impose a one percent sales tax, a one percent meals and alcoholic beverages tax, and a one percent rooms tax upon sales within the Town that are subject to the State of Vermont tax on sales, meals, alcoholic beverages, and rooms. The Town tax shall

be implemented in the event the State local options tax as provided for in 24 V.S.A. § 138 is repealed or the 70-percent allocation to the town is reduced. A tax imposed under the authority of this section shall be collected and administered by the Vermont Department of Taxes in accordance with State law governing the State tax on sales, meals, alcoholic beverages, and rooms. The amount of 70 percent of the taxes collected shall be paid to the Town, and the remaining amount of the taxes collected shall be remitted to the State Treasurer for deposit in the Pilot Special Fund first established in 1997 Acts and Resolves No. 60, § 89. The cost of administration and collection of this tax shall be paid 70 percent by the Town and 30 percent by the State from the Pilot Special Fund. The tax to be paid to the Town, less its obligation for the 70 percent of the costs of administration and collection, shall be paid to the Town on a quarterly basis and shall be set aside in the Sewer Reserve Fund to assist in the repayment of debt obligations related to the construction of a Municipal Wastewater System in Montgomery Center and Village. The Town may repeal the local option taxes by Australian ballot vote.

§ 21. Separability

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of this charter and its provisions to other persons or circumstances shall not be affected thereby.

§ 22. Amendment

The amendment of this charter shall be as provided by law.