Town Of Montgomery Charter

Summary of Proposed Amendments

(24 App. V.S.A. ch. 129B)

§ 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.

§ 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. Local options tax [Repealed]

- (a) 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 the sales within the Town that are subject to the State of Vermont tax on sales, meals, alcoholic beverages, and rooms.
- (b) A tax imposed under the authority of this section may be rescinded and shall be collected and administered pursuant to 24 V.S.A. § 138, provided that the Town shall:
- (1) receive on a quarterly basis not less than 70 percent of the tax collected, less the per-return fee; and
- (2) pay not more than 70 percent of the per-return fee.
- (c) The tax to be paid to the Town 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.
- (d) The taxes authorized by this section shall expire 90 days after the date that the Town has fully repaid the debt obligations related to the construction of the Municipal Wastewater System in Montgomery Center and Village.
- § 4. Municipal Wastewater Connection. Any owner of a property that is serviced by a wastewater system not deemed to be failed as defined by 10 V.S.A §1972(5), can opt out of connecting to any Municipal Wastewater System, and in so doing, the owner of said property shall remain responsible for only the same costs, taxes, assessments, levies, fees, and alike, attributable to properties that are not served by any Municipal Wastewater System. Notice of opting out is satisfied by delivering a simple written notice to the Town Clerk.

§ 5. Separability

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected by that holding. 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 by that holding.

• § 6. Amendment

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

Technically Corrected Petition as accepted by the Selectboard

{correction made to the original petition is highlighted below - this revised version of the petition language makes only a technical correction regarding the <u>date</u> of the vote}

In accordance with 17 V.S.A. §2645, we the undersigned legal voters of Montgomery hereby petition the Selectboard to properly warn and hold for vote at a Special Town Meeting on April 1st, 2025, the following Articles, to wit:

Article I. Shall the voters of Montgomery adopt an amendment to the Town Charter that strikes, annuls and repeals Section 3 of the Town Charter in its entirety and rescinds the local options tax as it is set forth and state herein. Section 3 of the Town Charter provides: §3. Local Option tax (a) 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. (b) A tax imposed under the authority of this section may be rescinded and shall be collected and administered pursuant to 17 V.S.A §138, provided that the Town shall: (1) receive on a quarterly basis not less than 70 percent of the tax collected, less the perreturn fee: and (2) pay not more than 70 percent of the per-return fee. (c) The tax to be paid to the Town shall be set 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 & Village. (d) The taxes authorized by this section shall expire 90 days after the date that the Town has fully repaid the debt obligations related to the construction of the Municipal Wastewater System in Montgomery Center and Village. (Added 2021, no. M-18 (Adj. Sess.), §2, eff. June 7, 2022.)

TARRANT GILLIES & SHEMS

GERALD R. TARRANT PAUL S. GILLIES RONALD A. SHEMS MICHAEL J. TARRANT II NICHOLAS A.E. LOW 44 EAST STATE STREET MONTPELIER, VT 05602 (802) 223-1112 FAX: (802) 223-6225

K. HEATHER DEVINE SARAH E. BUXTON DAVID K. MEARS STEPHEN F. COTEUS, of counsel

MEMORANDUM

CONFIDENTIAL: ATTORNEY - CLIENT COMMUNICATION

TO: Town of Montgomery Selectboard

FROM: Sarah E. Buxton, Esq.

RE: Issues related to citizen petition for changes to the Town charter

DATE: January 23, 2025

BACKGROUND

On Monday, December 23, 2024, the Montgomery Town Clerk received a petition to amend the Town charter in two ways. The first repeals Section 3 of the Town charter while the second adds a new section which would permit property owners served by a wastewater system not deemed as failed to opt out of connecting to the municipal wastewater system. At the top of the petition, the following words appear:

"In accordance with 17 V.S.A. §2645, we the undersigned legal voters of Montgomery hereby petition the Selectboard to properly warn and hold for vote at the March 4, 2025 Annual Town Meeting the following Articles, to wit:"

The clerk verified 127 signatures, meeting the threshold requirement that such petitions include signatures of at least five percent of the voters of the municipality. The clerk certified the petition on the same day it was received, December 23, 2024. The town office was closed beginning the following day and reopened on Thursday, January 2, 2025. The selectboard considered the petition at its next meeting, two business days later, on Monday, January 6, 2025.

REQUIREMENTS & TIMELINE CONSIDERATIONS FOR CHARTER PROPOSALS BY PETITION

- Petitions to adopt, repeal, or amend a municipal charter may be made by petition of five percent of the voters of the municipality.
- The town clerk must certify the date on which they received the official copy, file as a public record in the office, and make dated copies available to members of the public upon request.
- The selectboard can make technical corrections to the petition but may not revise the proposal.
- Two public hearings must be conducted.
 - o The first must be at least 30 days before the vote.
 - The second must be not more than 10 days after the first hearing (if proposed by petition).

- Both hearings must be warned not more than 40 and not less than 30 days from the date of the hearing.
 - This means that the warning for the first hearing needs to be posted between 60-70 days before the vote.
- Selectboards are the public body that warns and calls the public hearings, and any special or annual meeting required in this section.
- After the warning and hearing requirements are satisfied, charter proposal *put forth by petition* "shall be submitted to the voters *at the next annual meeting, primary, or general election."*
 - Note: A strict reading of this requirement would mean that this charter proposal could not go before the voters until Town Meeting 2026, because of the need to comply with notice and warning requirements.
 - o However, 17 V.S.A. § 2645 permits charter changes to be approved at special meetings.
 - o At their discretion, the Selectboard may call special meetings.

When the town clerk certifies a petition, they are certifying that the petition meets the legal signature requirements of the law. The Selectboard, not the clerk, is the body that is actually "petitioned." It alone has the authority to determine whether the petition can be accepted and advanced – or if there is reason to reject it.

ISSUE

As stated in the language of the Petition (copied above), petitioners wished for the charter changes to be voted on Town Meeting Day – March 4, 2025. The petition was submitted on December 23, 2024. The Town Office was then closed (as scheduled) until January 2, 2025. The next meeting of the Selectboard was scheduled for January 6, 2025. This means that there were only *three business days* between the date when the petition was submitted and the first opportunity for the Selectboard to take any action to begin advancing the petition. Even if this had been enough time to complete the administrative tasks and coordination required for the Selectboard to consider the petition and warn the first public hearing at its next meeting (January 6, 2025), the earliest date that a vote could have occurred would be March 7, 2025.

ANALYSIS

Because the Petition was not submitted in time to meet the warning and notice requirements applicable to charter changes to have the vote called on Town Meeting Day, there are three actions the Selectboard can take.

1. Reject the petition because it doesn't meet the legal requirements of the warning and notice provisions for a charter change.

- 2. Exercise its power to make a technical correction to the petition and change the date of the vote to "next annual meeting, primary, or general election" pursuant to 17 V.S.A. § 2645(a)(5)(B).
- 3. Exercise its power to make a technical correction to the petition and change the date of the vote to the date of a special meeting it may call for this purpose pursuant to 17 V.S.A. § 2645(a).

RECOMMENDATION

While the Board has the authority to take any of the above actions, I recommend that it make a technical correction to the date in the petition language and call a special meeting to vote on the charter amendments. This seems to address the request of the petitioners in the most expedited manner. A corrected proposal should be filed with the original, along with an explanation for the change, and made part of the record available to the public.

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Sara Clark JOHN WILSON Chris Pattullo	SIGNATURE	STREET ADDRESS ZISS Given Rd 253 Deep Giben Rd 381 Hazeps Notch RL

C fatth Reiff 12/23/2024 127 Verified Signatures

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Article II

PRINTED NAME	SIGNATURE	STREET ADDRESS
JEFF SALINGER	Jeff John	1226 HAMENS NOTCHRD.
Anita Woodward	Gut Comma	2723 Regan Rd, Mortgoney Cts VT
JOHN SACKETTY	John Sa	490 Hazens Noth Mont
VIEREST Hlones	Jan Mle	361 HAZERS Notch
V Sarah Cushing	Darah C. Cushin	1427 Regan Rd Montg Ctr. VT
XAMy Raymond Challey	aux Raymar al	2031 Black Falls Rd Montgomery 14.
Desnee Pudvob	Day 100	150 Fuller Bridge Rand montaning
Paul Sylvester 5n	forful Tylin	1464 WOST HILL D MONTGOMETY
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Bruce W. Halton	6 ar DANKA	1348 Regge Rel Mer Jung CTD. J
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Josh Edelson	Jan Ghan	11615-Main of montgonery (fr.
Josh Howard	I fell Vya	2949. S. Main St. Montgomen VT
Allen Deuso	meen -	131 S Brook Rd Mostery VT
Sandy Deuss	Soyndy Deys	209 South Brook Rd Montgomery CHX
Stacey St. Orga	they him	70 Constock Bridge Rd Markenny
Rundall Stoling	Randell St. Crus	70 Constock Bridge Rd Maiker
Luc Desautels	Luc Desautels	25 Blackfalls Rd nbngomen
Jonathan BetB	Ma	2472 - Blackfulls RD Montgomery
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MAthyn Venable	KAthayn Versle	259 Dreiners RD
DANIEL T. SHEPHERD	Daniel Sherling	259 DREAMENS ROAD
KLauri Ellis NRV	Lauri Eller	45 Comstock Bridge Road
John Burnes	Jhn Bhn	46 Besnoche Rd
Carrie Roberts	Country	46 Begnoche Farm Rd
I said Suide	Seelah Seilder	148 Main 54
vinaberta baka	F KORRUA A JOVE	1 3690 HILLUST Rt.
TAMA LUMBAT	anaffa fafi fu fun fun capuna an a	211 Martain Road Martyrey Corbe
Diane Gendron	Diene Gerdn	384 Marsh May Ctr
V Su Lan Deuso	Swand Deuso 3	Box48 montgomery Ctr. VT.

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V PETER LOCHER	Total E Jan	400 G1804 RD
Thomas O Stavley	Momas & Sanly	3504 North main Street
V James Marshia	Junes Harshia	218 Brook Road
Shirly Marshia	Space Marking	218 Block Road
Kathryn Fleming	Hattings Jun	13 Brook Rd
MAJNE SCHAAP	Wayne Lehays	195 Hearhock MT. DRIVE
Colin K. WOOD	Colin St. Wood	3129 REGIM RD., MONTCOMERY CIR. VT.
Navissa Fartado-Cordolo.	Meren tatelotaden	171 mouten of markening of ut
Challes Smadieul		1254 bollet FR. Ngr D. MONTE.
Merle Van Gleson	Mak Van Hi	3539 West/Lill Rd.
Keith Godfrey	Kewh Cody	15 Raven Woodland Montgomery

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Roy ford Elliol	1/2/1	1270 Mountain RJ	
Alexadra Ellivi NRV		1270 Mountain Rd	
John Muray	tohopy	1884 N Main ST	
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Adam Lumbr-	Jan Jak	250 South Brook RJ.	
June Abramourte	deue Ablamorely	357 Hannah Clark BrokPd	J.
Nathan Chaffee vot	The Oraline	95 Brook Ad.	
Dennis Deuso	Dernis Deuso	POBOX48 Montgomer	1
7		Ctr. V	17

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Article JI

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V JAREN R CORIEU	April Bay and	2039 No MAIN ST, MONTGOMERY
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V Paron Ede		235 Highland Springs
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PRINTED NAME PETER LARKIN	SIGNATURE Lethankini	STREET ADDRESS 214 Lower Burg RX

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Article II

PRINTED NAME	<u>SIGNATURE</u>	STREET ADDRESS
/ K. M. Brack CL	A7	1275 Royan Rof
JOHN BOUCHER	Sh P B	72 MAIN STI
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Article II

PRINTED NAME	SIGNATURE	STREET ADDRESS
CRAIG Godfley	creey elle	4866 Hill west RD
V Amy Bitaborgh	Cany Referby	926 Deep Gibou Ro Montgomery Ctr. VT
V Luke Godfree	July B Shelfy	926 Deep Gibou Rt Montgomery Ctr
V Karlein Hill	Karley Hill	76 Deep Gibou Rd Monting ctr
Dirk Danielson	Durk W. Parcel	, , , , , , , , , , , , , , , , , , , ,
- Rus Medlettory	23/1/2	76 Deep Gibou Rd Montgray Cfr. 1288 GUBON RD MUSTENERY VT 05471
Vancy Lumbra	Maney Lumbre	1151 Giber Rd. Montgomery Cty Vosun
Earl Lumbra	Earl Lumb	1151 Gibou Rd. Montgonery Ctr. VT 05471
Kim Morrill	Kuberly M	2040 Giban Rd Montgomeny Ctr VT
Lynn Locher	Lynn Locker	400 6; bou Rd. Montgomery
0		0547 1JCTR. VI

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PRINTED NAME	SIGNATURE	STREET ADDRESS
PATRICK T. CALECAS	Lude Va Gueson Patrick A Calleon	3539 West Hill Rd.
Roth Godfrey	Rith Godfrey	850 Gibou Rold
Penny Babare	Kenny But	1772 Gibou Boad
KChuck Fabare -	Chille To Dake	1772 Giboutd.
Vaul J. Chauv. ~	Man A Cham	75 Nutting Rd.
Laurette M. Chanvin	Tamboll Cha	3291 S. Main Street
Susaw Chernien	- Dusa Cheri	253 Deep Gihou 05471
William Bakes	Al flion Baker	519 Sauth Main ST
Denise Baller	Lenise Baken	519 S. Main St
V CUNNIE MEFARIA	Comie Mc Ferendo	126 M Main 5+

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PRINTED NAME	SIGNATURE	STREET ADDRESS
V DAMEN DESNIK		195 MAIN ST
V Karre Quintin	KMA	966 N. Main
Henrah Messier	Alm B Misse	20 1
V John Messiet	1/1/1/00	1224 Mantain Rad
VROBIN L. Pelkey	Robin L. Ressa	y 54 mountain Road
VJohn M. Pelkey	John Malfry	- 54 munitain Road
Timothy Spider		54 mountain P)
-Philip Heimbecker		60 green mm vd
Mary Temple	Mary Cemple	490 Hazens Notch Rd
VKyla Temple	Kirly Temple	490 Hazens Notch Rd
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PRINTED NAME	SIGNATURE	STREET ADDRESS
Aline Baker	Alone Daker	84 WeilHell & Endslugerts
Robert Baker	Robert Bak	By West Hill od Endowing 5545
WFLLTAM BAKER JR	Within Balon of	3690 HILL West Rd montgamens
Gary MCAILLE	The Har MEUE	40/2 Hil WOT BU
Susan MAHotes	San Mally	4012 Hill WET Rd
Mark Kane	. Mach Jer	4029 Hillwest Rd
V Donna Kkare	Donna KKa	4029 Hill West Rd
V Hingre Gagne	and Hagis	41951111 West Rd
Linda Gagne	Linda Dage	4195 Hell West Kel
VI Ammy Patno	Tany Patu	
X James Patro	Sail Petuo	3094 Hill West Rd.

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PRINTED NAME	SIGNATURE	STREET ADDRESS
Michael Mercy	Michael Muy	2896 South Mainst.
VEric Mercy	Esamuy	2896 South main st.
Denise Merry	Dunis Some Sound	2896 South Main Sr.
MICHAEL PHILLIPS	Mu t	333 MONTGOMENT HeighTS RD
V David Mercy	Down Merry	2584 South Main ST
V pancy martinson	Nancy Martinson	60 Hazens Notch Road
· Rolondo GM. Granway	76MG	82 Moin St.
V Alton Romero	ATD	82 Main Str
MIME AbramowiTz	meand Alming	357 Hannah Clark Brook Rd.
Mike Carpenter	MCC	Mostgameny

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PRINTED NAME	SIGNATURE	STREET ADDRESS
VEsther S. Lichti	Father S. Lichai	106 Sundell Rd. Mtg Ctr.
RICHARD R. HOGSHIRE	Mul Ohlher	222 DREAMERS RD, MONTGOMERY, VT
JANNETTE K. HOGSHINE	Any.	222 DREAMERS RD MONTGOMERY, VI
Roger Hanrin SR	Resellar	SIBEGNOCKS MONTGERMINENT
VTHERESE BEGNOCHE	Therese Begroche	61 So main Mont. Cla
Lyone Dreisk	Typus Drick	195 Main Storet, Mortgorney Fr
Jeanne Nichols	Jog me Vichols	728 Hosens Notch Road
PAUL F. Nichols	Saul & nickols	728 Hayens Notch Rd. Marx. VT
Christa Wilde	Celliale	1790 Hazen Notch Rd.
PEGGIE FAGAN	Dogie Fagan	1226 Hazens notch Rd Montgomer
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Article II

Alan Donna James Schley	SIGNATURE Alay Pooma Jomes Schley	STREET ADDRESS 183 50 Main Set 52 Fuller Bridge Rd
		RECENSO/PAID DO 23 2024 TOWN OF MONTGOINE
TOWN	OF MANUTCOMPEN	127 Verified Signatures