

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 Local options tax [Repealed]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(b) ~~A tax imposed under the authority of this section may be rescinded and shall be collected and administered pursuant to 24 V.S.A. § 138, provided that the Town shall:~~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 date 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 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 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.)

Article II. Shall the voters of Montgomery adopt an amendment to the Town Charter as follows: 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.

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
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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.
 - 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.
 - However, 17 V.S.A. § 2645 permits charter changes to be approved at special meetings.
 - 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.




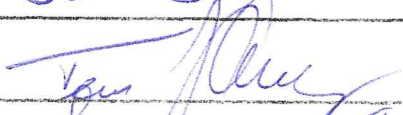

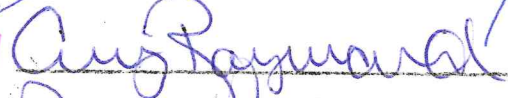
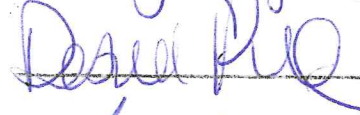



In accordance with 17 V.S.A. §2645, we the undersigned legal voters of Montgomery hereby petition the Selectboard to properly warn and hold for vote at the March 4, 2025 Annual Town Meeting the following Articles, to wit:

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 stated herein. Section 3 of the Town Charter provides: §3. Local options 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 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 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. (Added 2021, no. M-18 (Adj. Sess.), § 2, eff. June 7, 2022.)

Article II

Shall the voters of Montgomery adopt an amendment to the Town Charter as follows: 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.

<u>PRINTED NAME</u>	<u>SIGNATURE</u>	<u>STREET ADDRESS</u>
✓ JEFF SALINGER		1226 Hagens Notch Rd.
✓ Anita Woodward		2723 Regan Rd, Montgomery Ctr VT
✓ JOHN SACKETT		490 Hazens Notch Mont
✓ TERESA Almy		381 Hazens Notch
✓ Sarah Cushing		1427 Regan Rd Montg Ctr, VT
X Amy Raymond <i>challenged</i>		2031 Black Falls Rd Montgomery VT
✓ Desree Pudvah		150 Fuller Bridge Road Montgomery
✓ Paul Sylvester Jr		1404 West Hill Rd Montgomery
✓ Laura Tuttle		1348 Regan Road, Montgomery
✓ Bruce W. Tilton		1348 Regan Rd Montgomery Ctr. VT


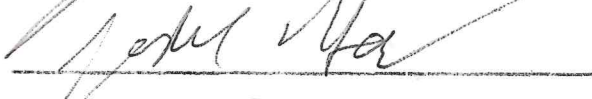


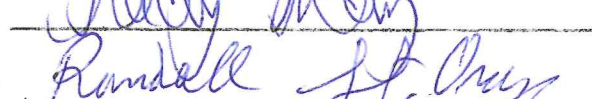
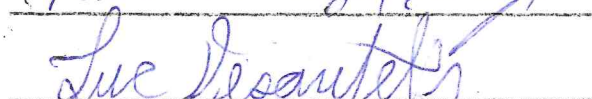




In accordance with 17 V.S.A. §2545, we the undersigned legal voters of Montgomery hereby petition the Selectboard to properly warn and hold for vote at the March 4, 2025 Annual Town Meeting the following Articles, to wit:

Article I

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<u>PRINTED NAME</u>	<u>SIGNATURE</u>	<u>STREET ADDRESS</u>
✓ Josh Edelsan		1161 S. Main St. Montgomery Ctr.
✓ Josh Howard		2949 S. Main St, Montgomery VT
✓ Allen Dewso		131 S Brook Rd Montory VT
✓ Sandy Dewso		209 South Brook Rd Montgomery Ctr
✓ Stacey St. Croix		70 Comstock Bridge Rd Montgomery
✓ Randall St. Croix		70 Comstock Bridge Rd Mont VT
✓ Luc DESAUTELS		25 Blackfalls Rd Montgomery
✓ Jonathan Betts		2472 - Blackfalls Rd Montgomery
✓ Jesse Soule		1421 Blackfalls Rd
✗ Richard Desile <i>challenged</i>		2031 Black Falls Rd

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<u>PRINTED NAME</u>	<u>SIGNATURE</u>	<u>STREET ADDRESS</u>
✓ KATHRYN VENABLE	Kathryn Venable	259 DREAMERS RD
✓ DANIEL T. SHEPHERD	Daniel T. Shepherd	259 DREAMERS ROAD
✗ LAURI ELLIS NRV	Lauri Ellis	45 Constock Bridge Road
✓ John Barnes	John Barnes	46 Beanoche Rd
✓ Carrie Roberts	Carrie Roberts	46 Beanoche Farm Rd
✓ Isaac Suider	Isaac Suider	148 Main St
✓ Roberta Baker	Roberta A. Baker	3690 Hill West Rd
✓ TANA LUMBRA	Tana Lumbr	211 Mountain Road Montgomery Center
✓ Diane Gendron	Diane Gendron	384 Main St Mont Ctr VT
✓ Susan Deuso	Susan Deuso	Box 48 Montgomery Ctr. VT.

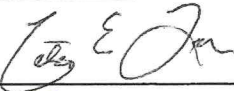
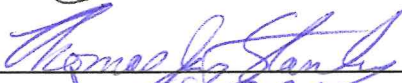

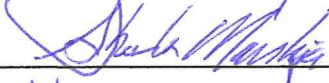
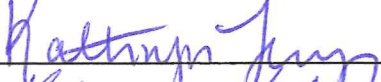
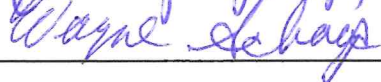
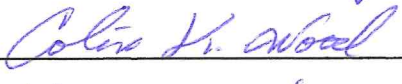
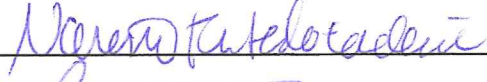
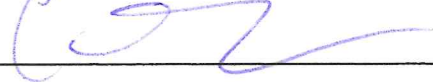
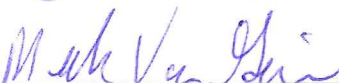
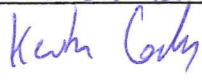
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<u>PRINTED NAME</u>	<u>SIGNATURE</u>	<u>STREET ADDRESS</u>
✓ PETER LOCHER		400 GIBOU RD
✓ THOMAS J STANLEY		3504 North main street
✓ James Marshia		218 Brook Road
✓ Shirk Marshia		218 Brook Road
✓ Kathryn Fleming		13 Brook Rd
✓ WAYNE SCHAAP		195 HEENOCK MT. DRIVE
✓ COLIN K. WOOD		3129 REGAN RD., MONTGOMERY OR: VT.
✓ NARISSA FURTADO-CORREIA		171 mountain rd Montgomery vt
✓ Charles Swadlow		1756 Colled Fringe Rd. North.
✓ Merle Van Grierson		3539 West Hill Rd.,
✓ Keith Godfrey		15 Raven Woodland Montgomery

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PRINTED NAME

SIGNATURE

STREET ADDRESS

✓ Bradford Elliott		1270 Mountain Rd
✗ Alexandra Elliott NRV		1270 Mountain Rd
John Murray		1884 N Main St
✓ John Murray		1884 N Main St
✓ John Charette		1984 West Hill
✓ David Saborsky		2744 S main st
✓ Adam Lumbro		250 South Brook Rd.
✓ June Abramowitz		357 Hannah Clark Brook Rd
✗ Nathan Chatter challenged voter		95 Brook Rd.
✓ Dennis Deuso 7	Dennis Deuso	PO Box 48 Montgomery Ct. Vt.


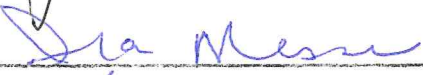


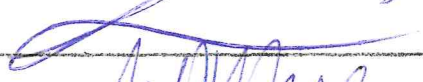
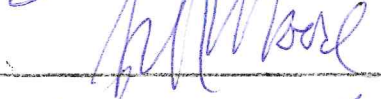
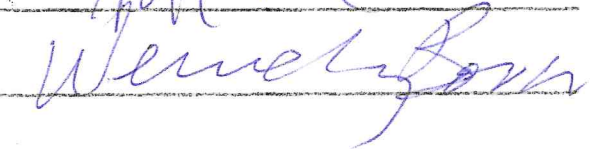
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<u>PRINTED NAME</u>	<u>SIGNATURE</u>	<u>STREET ADDRESS</u>
✓ Isabelle Coriell		2035 n main st montgomery 05470
✓ Eric Messier		1224 Mountain Rd Montgony
✓ JAREK R CORIEU		2035 N. MAIN ST, MONTGOMERY
✓ Arthur St-Onge		1701 N. Main St. Montgony
✓ Aaron Ede		235 Highland Springs
✓ JEFF MOORE		42 ANTHECOMMON, APT 3
✓ Wendy Bouda		124 Mountain Rd Mont Green

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PRINTED NAME

SIGNATURE

STREET ADDRESS

✓ Arnold Mercy	Arnold Mercy	2637 S. Main St
✓ Linda Mercy	Linda Mercy	2632 S Main St.
✓ Shane Mercy	Shane Mercy	2494 S. Main St

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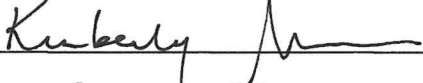
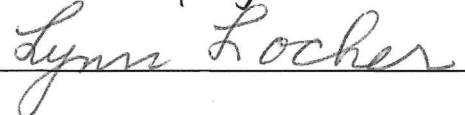
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✓ CRAIG Godfrey		4866 Hill west RD
✓ Amy Birfenburgh		926 Deep Gibou Rd Montgomery Ctr, VT
✓ Luke Godfrey		926 Deep Gibou Rd Montgomery Ctr
✓ Karlein Hill		76 Deep Gibou Rd Montgoy Ctr
✓ Dirk Danielson		76 Deep Gibou Rd Montgoy Ctr.
✓ Ruth Mcclintock		1288 GIBOU RD MONTGOMERY VT 05471
✓ Nancy Lumbrá		1151 Gibou Rd. Montgomery Ctr VT 05471
✓ Earl Lumbrá		1151 Gibou Rd. Montgomery Ctr. VT 05471
✓ Kim Morrill		2040 Gibou Rd Montgomery Ctr VT 05471
✓ Lynn Locher		400 Gibou Rd. Montgomery 05471 CTR. VT

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STREET ADDRESS

✓ Linda VanGreson	Linda VanGreson	3539 West Hill Rd
✓ PATRICK J. CALECAS	Patrick J Calecos	3973 West Hill Rd.
✓ Ruth Godfrey	Ruth Godfrey	850 Gibou Road
✓ Penny Bobare	Penny Bobare	1772 Gibou Road
✗ Chuck Kobare -	Chuck Kobare	1772 Gibou Rd.
✓ Paul J. Chauvin	Paul J. Chauvin	75 Nudig Rd.
✓ Laurette M. Chauvin	Laurette M. Chauvin	3291 S. Main Street
✓ Susan Cherrien	Susan Cherrien	253 DeepGibou, 05471
✓ William Baker	William Baker	519 South Main St
✓ Denise Baker	Denise Baker	519 S. Main St
✓ CONNIE McFARLAND	Connie McFarland	126 N Main St








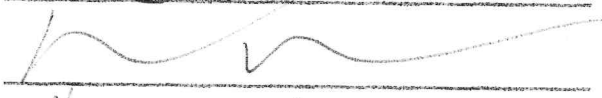
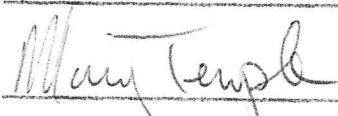

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✓ DANEN DRUNK		195 MAIN ST
✓ Karie Quintin		966 N. Main
✓ Hannah Messier		1224 Mountain Road
✓ John Messier		1224 Mountain Road
✓ Robin L. Pelkey		54 Mountain Road
✓ John M. Pelkey		54 Mountain Road
✓ Timothy Snider		54 Mountain Rd
✓ Philip Humberker		60 green mtn rd
✓ Mary Temple		490 Hazens Notch Rd
✓ Kyla Temple		490 Hazens Notch Rd

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✓ Aline Baker	<i>Aline Baker</i>	84 West Hill Rd ^{Endersburg VT} 055430
✓ Robert Baker	<i>Robert Baker</i>	84 West Hill Rd ^{VT} 055450
✓ WILLIAM BAKER JR	<i>William Baker Jr</i>	3690 Hill West Rd ^{Montgomery, VT} 05470
✓ Gary McAllister	<i>Gary McAllister</i>	4012 Hill West Rd
✓ Susan McAllister	<i>Susan McAllister</i>	4012 Hill West Rd
✓ Mark Kane	<i>Mark Kane</i>	4029 Hill West Rd
✓ Donna Kane	<i>Donna Kane</i>	4029 Hill West Rd
✓ Andre Gagne	<i>Andre Gagne</i>	4195 Hill West Rd
✓ Linda Gagne	<i>Linda Gagne</i>	4195 Hill West Rd
✓ Tammy Patno	<i>Tammy Patno</i>	3094 Hill West Rd.
10/ ✓ X Paul Patno NRV	<i>Paul Patno</i>	3094 Hill West Rd

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✓ Michael Mercy	Michael Mercy	2896 South Main St.
✓ Eric Mercy	Eric Mercy	2896 South main st
✓ Denise Mercy	Denise Mercy	2896 South Main Jr.
✓ MICHAEL PHILLIPS	MPH	333 MONTGOMERY HEIGHTS RD
✓ David Mercy	David Mercy	2584 south Main ST
✓ Nancy Martinson	Nancy Martinson	66 Hazens Notch Road
✓ Rhonda GM. Greenway	RGM	82 Main St.
✓ Alton Romero	AR	82 Main St
✓ MIKE ABRAMOWITZ	Michael Abramowitz	357 Hannah Clark Brook Rd.
✓ Mike Carpenter	MC	2045 North main Montgomery

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✓ <u>Esther S. Lichti</u>	<u>Esther S. Lichti</u>	<u>106 Sundell Rd. Mtg Ctr.</u>
✓ <u>RICHARD R. HOGSWIRE</u>	<u>Richard R. Hogswire</u>	<u>222 DREAMERS RD, MONTGOMERY, VT</u>
✓ <u>JANNETTE K. HOGSWIRE</u>	<u>Jannette K. Hogswire</u>	<u>222 DREAMERS RD, MONTGOMERY, VT</u>
✓ <u>Roger A. Harkin SR</u>	<u>Roger A. Harkin</u>	<u>87 Begnoche Montgomery, VT</u>
✓ <u>THERESE BEGNOCHE</u>	<u>Therese Begnoche</u>	<u>61 So main Mont. etc</u>
✓ <u>Lynne Dreivik</u>	<u>Lynne Dreivik</u>	<u>195 Main Street, Montgomery VT</u>
✓ <u>Joanne Nichols</u>	<u>Joanne Nichols</u>	<u>728 Hazens Notch Road</u>
✓ <u>PAUL F. NICHOLS</u>	<u>Paul F. Nichols</u>	<u>728 Hazens Notch Rd. Mont. VT</u>
✓ <u>Christa Wilde</u>	<u>Christa Wilde</u>	<u>1790 Hazens Notch Rd.</u>
✓ <u>PEGGIE FAGAN</u>	<u>Peggie Fagan</u>	<u>1226 Hazens Notch Rd Montgomery Center VT</u>

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SIGNATURE

STREET ADDRESS

✓ Alan Donna

Alan P Donna

183 So Main St

✓ James Schley

James Schley

52 Fuller Bridge Rd

RECEIVED/PAID
DEC 23 2024
TOWN OF MONTGOMERY

RECEIVED/PAID
DEC 23 2024
TOWN OF MONTGOMERY

127 Verified Signatures

12/23/2024 E. J. Reilly