



Agenda

City Council Meeting

City Council Chambers, City Hall
Wednesday, January 15, 2020
6:30 P.M.

1. Call To Order By The Mayor
2. 20-017. Review and approve agenda
3. 20-018. General business and appearances
4. 20-019. Consideration of the Consent Agenda
 - a. Necessity Resolution
 - b. Payroll and bills
5. 20-020. 5 Home Farm Way update
6. 20-021. Bond discussion
7. 20-022. Bond Public Hearing
8. 20-023. Budget Public Hearing
9. 20-024. Annual Meeting Warning
10. 20-025. Dog Ordinance Amendments, 1st Public Hearing
11. 20-026. Other business
12. 20-027. Council reports
13. 20-028. Mayor's report
14. 20-029. City Clerk's report
15. 20-030. City Manager's report
16. Adjournment



CITY COUNCIL Agenda Item #20-019(a)

Date: January 15, 2020

Consent X **Discussion**

SUBJECT: Bond Necessity Resolution and Declaration of Intent

SUBMITTING DEPARTMENT: Manager's and Finance Office

RECOMMENDED ACTION: Approve the necessity to issue bonds not to exceed \$5,200,000 for renovations and improvements to the Recreation Center 55 Barre Street.

RELATED COUNCIL GOAL/PRIOR ACTION:

- A: Community prosperity
- B: Sustainable Infrastructure
- C: Thoughtfully planned built environment

EXPENDITURE REQUIRED: None

SOURCE OF FUNDS: N/A

LEGAL REQUIREMENTS: City Charter §1102 SUBMISSION TO VOTERS (a) When the City Council shall determine that the public necessity or interest demands improvements, other than improvements relating to schools or school property, and that the cost of the same will be too great to be paid out of the ordinary revenue of the City, the Council may by vote of two-thirds of its members order the submission of a proposition to make such improvements and incur debt to pay for the same to the voters of the City at an annual or special meeting warned and held for that purpose.

BACKGROUND INFORMATION: None

SUPPORTING DOCUMENTS: Necessity Resolution and Declaration of Intent

INTERESTED PARTIES: Council, residents, community members, outside agencies, rate payers, staff

CITY MANAGER'S APPROVAL:

A handwritten signature in black ink, appearing to read "W. Hoffman", written over a horizontal line.



CITY OF MONTPELIER
MONTPELIER, VERMONT

NECESSITY RESOLUTION CERTIFICATE

RESOLVED, that the public interest and necessity demand that certain infrastructure improvements be made, viz: design, engineering and construction of renovations to the Recreation Center located at 55 Barre Street.

BE IT FURTHER RESOLVED that the cost of completing said public improvements, after application of funds available from the United States of American and/or the State of Vermont, will be too great to be paid out of the ordinary annual income and revenue of the City of Montpelier.

BE IT FUTHER RESOLVED, that a proposal for issuance of general obligation bonds or notes of the City of Montpelier, in an amount not to exceed Five Million Two Hundred Thousand Dollars (\$5,200,000), to pay for the cost of said improvements should be submitted to the legal voters of the city at the annual meeting thereof to be duly held on March 3, 2020; and

BE IT FURTHER RESOLVED, that all acts relating to the proposition of incurring indebtedness and the issuance of general obligation bonds or notes of the City Of Montpelier for the purpose of financing such improvements, as well as the construction, maintenance and operation of such improvements within the corporate limits of the City, be in accordance with the provisions of No. M-9 of the Acts of 1987, as amended, and Chapter 53 of Title 24, Vermont Statutes Annotated, and the Charter of the City of Montpelier.

Dated: January 15, 2020

ATTEST: _____
City Clerk

Received for record and recorded this ____ day of January 2020 in the records of the City of Montpelier.

John Odum, City Clerk
City of Montpelier



DECLARATION OF OFFICIAL INTENT
OF THE CITY OF MONTPELIER
TO REIMBURSE CERTAIN EXPENDITURES
FROM PROCEEDS OF INDEBTEDNESS

WHEREAS, the City of Montpelier, Vermont (the “Issuer”) intends to construct highway and infrastructure improvements to be considered by the Issuer at the annual meeting thereof to be held on March 3, 2020 (the “Project”);

WHEREAS, the Issuer expects to pay certain capital expenditures (the “Reimbursement Expenditures”) in connection with the Project prior to the issuance of indebtedness for the purpose of financing costs associated with the Project on a long-term basis;

WHEREAS, the Issuer reasonably expects that for that part of the Project consisting of permitting, financing, acquisition, engineering, design and construction costs, debt obligations in an amount not expected to exceed \$5,200,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Reimbursement of Expenditures.; and

Whereas, the Issuer declares its reasonable official intent to reimburse prior expenditures for the above-described part of the Project with proceeds of a subsequent borrowing;

NOW THEREFORE, the Issuer, declares:

Section 1: The Issuer finds and determines that the foregoing recitals are true and correct, and that all of the capital expenditures covered by this Resolution were or will be made no earlier than 60 days prior to the date of this Resolution.

Section 2: This declaration is made solely for the purposes of establishing compliance with the requirements of Section 1.150-20 of the Treasury Regulations. This declaration does not bind the Issuer to make any expenditure, incur any indebtedness, or proceed with the Project.

Section 3: The Issuer hereby declares its official intent to use proceeds of indebtedness to reimburse itself for Reimbursement expenditures, within 18 months of either the date of the first expenditures of funds by the Issuer for such Project or the date that such Project is placed in service, whichever is later (but in no event more than three years after the date of the original expenditure of Issuer funds for such Project), and to allocate an amount not to exceed \$5,200,000 of the proceeds thereof to reimburse itself for its expenditures in connection with the Project.

Section 4: The Issuer's debt obligations for the aforementioned purpose will not be "private activity bonds" within the meaning of section 141 of the Internal Revenue Code of 1986.

Section 5: All prior actions of the officials and agents of Issuer that are in conformity with the purpose and intent of the Resolution and in furtherance of the Project shall be and the same hereby are in all respects, ratified, approved and confirmed..

Section 6: All other resolutions of the legislative body of the Issuer, or parts of resolutions, inconsistent with this Resolution are hereby repealed to the extent of such inconsistency.

Section 7: It is hereby found that all discussions and deliberations of the legislative body of the Issuer leading to the adoption of the Resolution occurred at one or more meetings of the legislative body conducted pursuant to the public notice and open to public attendees.

Section 8: The declaration shall take effect from and after its adoption.

The undersigned, City Clerk of the Issuer, hereby certifies that the foregoing is a full, true and correct copy of the declaration of the legislative body of said Issuer duly made at a meeting thereof held on the date, specified below, and that said declaration has not been amended, modified or revoked.

City Clerk

January 15, 2020



SUBJECT: 5 Home Farm Way / Two Rivers Partnership update

SUBMITTING DEPARTMENT: City Manager's Office

RECOMMENDED ACTION: Receive update from Jamie Duggan of Two Rivers Partnership, allow time for discussion.

RELATED COUNCIL GOAL/PRIOR ACTION: Health and Safety, Responsible Government

EXPENDITURE REQUIRED: N/A

SOURCE OF FUNDS: N/A

LEGAL REQUIREMENTS: N/A

BACKGROUND INFORMATION: At the July 10th Council meeting, it was determined that the property at 5 Home Farm Way is a public nuisance. At the same meeting, Two Rivers Partnership expressed interest and provided a proposal to transition the property at Home Farm Way to new ownership, restoring the homestead as a place to meet community needs. As a result, Council moved that the city forbear on any action to demolish or otherwise affect the physical structure temporarily conditioned on the efforts of Two Rivers' partnership as they've outlined in their communications, and under the condition they report back to Council every three months for a period of two years.

SUPPORTING DOCUMENTS: None

INTERESTED PARTIES: Council, Fire, Building Inspector, Two Rivers Partnership

CITY MANAGER'S APPROVAL: 



CITY COUNCIL Agenda Item #20-021

Date:, January 15, 2020

Consent ☐ Discussion ☒ **Time Sensitive ☐ **Yes**
(outlined below)**

SUBJECT: Decision on timing of \$5.2 Million Recreation Center Bond

SUBMITTING DEPARTMENT: City Manager

RECOMMENDED ACTION: Choose whether to include Recreation Center Bond on March election ballot.

RELATED COUNCIL GOAL/PRIOR ACTION: Sustainable Infrastructure

EXPENDITURE REQUIRED: None for ballot decision. The Recreation Center project is estimated to cost \$5.2 Million dollars.

SOURCE OF FUNDS: 30 year municipal bond, from general fund

LEGAL REQUIREMENTS: Bond vote must be properly warned on the election ballot. At least one public hearing must be held before finalizing the ballot item. A public informational hearing must be held within 10 days of the election.

BACKGROUND INFORMATION: The City's recreation center at 55 Barre Street has long been in need of repair, upgrade and being made accessible. After considering options for a new facility, the Council chose to proceed with a more complete study of renovations at the existing site.

SUPPORTING DOCUMENTS: None

INTERESTED PARTIES: Recreation Board, MSAC Board

CITY MANAGER'S APPROVAL:

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CITY COUNCIL Agenda Item #20-022

Date: January 15, 2020

Consent ☐ **Discussion** ☒

SUBJECT: Bond Public Hearing

SUBMITTING DEPARTMENT: City Manager and Finance

RECOMMENDED ACTION: Conduct a public hearing on the issuance of a new bond for the Recreation Center.

STRATEGIC OUTCOME/PRIOR ACTION:

- A: Community prosperity
- B: Sustainable Infrastructure
- C: Thoughtfully planned built environment

EXPENDITURE REQUIRED: None

SOURCE OF FUNDS: N/A

LEGAL REQUIREMENTS: To provide warning to voters of proposed new bonding to be voted on at the Annual City Meeting on March 3, 2020.

BACKGROUND INFORMATION: A new bond is proposed in an amount not to exceed \$5,200,000 for renovations to the Recreation Center at 55 Barre Street.

SUPPORTING DOCUMENTS: Draft of the bond article for the Annual City Meeting Warning

INTERESTED PARTIES: City Council, Voters, City Staff

CITY MANAGER'S APPROVAL:

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CITY MEETING WARNING FOR MARCH 3, 2020

The legal voters of the City of Montpelier, in City Meeting in Montpelier, in the County of Washington and the State of Vermont, are hereby warned to meet in the City Hall Auditorium, in said Montpelier, on the first Tuesday in March, March 3, 2020, at seven o'clock in the forenoon, and there and then to cast their ballot for the election of officers, matters that by law must be determined by ballot, and other matters as directed by the Council. The polls will be opened at 7:00 A.M. and shall be closed and the voting machine sealed at 7:00 P.M.

The legal voters of the Montpelier Roxbury School District are hereby warned of voting for all Australian ballot articles to be held on Tuesday, March 3, 2020. The legal voters of Montpelier may vote at Montpelier City Hall from 7:00 A.M. to 7:00 P.M. The legal voters of Roxbury may vote at the Roxbury Town Hall from 10:00 A.M. to 7:00 P.M.

ARTICLE 1. To elect one commissioner for the Green Mount Cemetery for a term of five years; one park commissioner for a term of five years; one park commissioner to fill out the remainder of a term of five years, to expire in two years; one council member from each district, for a term of two years.

ARTICLE 2. To elect one School District Moderator, one School District Clerk and one School District Treasurer to serve from their election and qualification for one year or until the election and qualification of their successors. (Requested by the School Board)

ARTICLE 3. To elect three Montpelier School Directors, each for a three year term; one Montpelier School Director for one year remaining on a three year term; and one Roxbury School Director for two years remaining on a three year term. (Requested by the School Board)

ARTICLE 4. To elect one at-large Board Member to serve on the Central Vermont Public Safety Authority Board for a three-year term commencing March, 2020.

ARTICLE 5. Shall the voters appropriate the sum of **\$15,056,290** for the payment of debts and current expenses of the City for carrying out any of the purposes of the Charter, plus payment of all state and county taxes and obligations imposed upon the City by law to finance the fiscal year July 1, 2020 to June 30, 2021? (Requested by the City Council)

ARTICLE 6, Shall the voters of the school district adopt a budget of **\$25,054,900** which is the amount the school board has determined to be necessary for the ensuing fiscal year? It is estimated that this proposed budget, if approved, will result in education spending of **\$16,843.73** per equalized pupil. This projected spending per equalized pupil is 2.95% higher than spending for the current year. (Requested by the School Board)

ARTICLE 7. Shall the voters of the school district appropriate **\$270,000** necessary to supplement the Capital Reserve Fund in support of the District? It is estimated that this proposed budget, if approved, will result in education spending of **\$17,060.60** per equalized pupil. This projected spending per equalized pupil is **4.27%** higher than spending for the current year. (Requested by the School Board)

ARTICLE 8. Shall the voters appropriate the sum of \$4,000 as compensation to the Mayor for services for the fiscal year July 1, 2020 to June 30, 2021? (Requested by the City Council)

ARTICLE 9. Shall the voters appropriate the sum of \$12,000 (\$2,000 each) as compensation to the Council Members for their services for the fiscal year July 1, 2020 to June 30, 2021? (Requested by the City Council)

ARTICLE 10. Shall the voters appropriate the sum of \$9,700 (Chair \$1,500; Vice Chair \$1,200; others \$1,000 each) as compensation to the School Directors for their services for the fiscal year July 1, 2020, to June 30, 2021? (Requested by the School Board)

ARTICLE 11. Shall the voters authorize the Board of School Directors to hold any audited fund balance as of June 30, 2020 in a reserve (assigned) fund to be expended under the control and direction of the Board of School Directors for the purpose of operating the school? (Requested by the School Board)

ARTICLE 12. Shall the voters authorize the City Council to borrow a sum of money not to exceed \$5,200,000 for renovations to the Recreation Center located at 55 Barre Street? Work will include design, engineering and construction related to building and accessibility improvements and related renovations.

ARTICLE 13. Shall the voters authorize the City to levy a special assessment of \$0.0515 per \$100 of appraisal value on properties within Montpelier’s Designated Downtown not used entirely for residential purposes? The assessment shall be apportioned according to the listed value of such properties except that the assessment for any property also used for residential purposes shall be reduced by the proportion that heated residential floor space bears to heated floor space for such property. Funds raised by the assessment shall be used to improve the downtown streetscape and to market the downtown. (Requested by the City Council)

ARTICLE 13. Shall the voters appropriate the sum of \$350,471 to be used by the Kellogg-Hubbard Library for the fiscal year July 1, 2020 to June 30, 2021? (This amount is in addition to the \$25,365 for the library bond payment included in the City General Fund Budget, ARTICLE 5)

ARTICLE 14. Shall the voters of the Central Vermont Public Safety Authority (CVPSA) appropriate the sum of \$50,000 (\$25,000 from the City of Montpelier and \$25,000 from Barre City) for the operating budget of CVPSA for fiscal year July 1, 2020 and June 30, 2021.

ARTICLE 15. Petition?

ARTICLE 16. Petition?

Dated this 23rd day of January, 2020

Signed: _____
Anne Watson, Mayor

Members of the City Council:

_____	_____
_____	_____
_____	_____

CITY SEAL:

ATTEST:

John Odum, City Clerk



CITY COUNCIL Agenda Item #20-023

Date: January 15, 2020

Consent ☐ Discussion ☒

SUBJECT: FY21 Budget Public Hearing

SUBMITTING DEPARTMENT: City Manager

RECOMMENDED ACTION: Conduct the second public hearing on the proposed FY20 budget. The City Manager presented the FY20 budget to Council on December 12, 2018. Council preliminarily approved the budget on January 9th. The proposed budget is posted on the City's website.

STRATEGIC OUTCOME: All

LEGAL REQUIREMENTS: City Charter § 903. **COUNCIL ACTION ON THE BUDGET** The City Council shall review the annual City budget as submitted by the City Manager at budget meetings established by the Council. The meetings of the City Council upon the budget shall be open to the public. During its review of the proposed budget, the City Council may add or increase budget programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for fixed debt service requirements.

BACKGROUND INFORMATION: The City Council received a preliminary budget in proposed by the City Manager December. This public hearing is the budget proposed by City Council.

SUPPORTING DOCUMENTS: FY21 budget books provided to council, budget documents are available at <https://www.montpelier-vt.org/DocumentCenter/View/6455/FY2021-Proposed-Budget>

INTERESTED PARTIES: City Council, Voters, City Staff

CITY MANAGER'S APPROVAL:

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Signed: _____
Anne Watson, Mayor

Members of the City Council:

_____	_____
_____	_____
_____	_____

CITY SEAL:

ATTEST:

John Odum, City Clerk



SUBJECT: Dog Ordinance First Public Hearing

SUBMITTING DEPARTMENT: City Manager's Office

RECOMMENDED ACTION: Receive the recommended amendment to the Article II. Dog and Animal Control Ordinance and hold a public hearing on the changes.

STRATEGIC OUTCOME/PRIOR ACTION: Councilor Bate introduced a discussion on the Dog and Animal Control Ordinance at the November 13th, 2019 Council Meeting. Council asked for staff to present recommendations for Council to then discuss. Recommended ordinance language was presented at the January 8, 2020 Council Meeting, and Council opted to hold a public hearing.

EXPENDITURE REQUIRED: N/A

SOURCE OF FUNDS: N/A

LEGAL REQUIREMENTS: N/A

BACKGROUND INFORMATION: As directed, staff has benchmarked local and regional Ordinances that address the definition of nuisance dogs. Recommended amendment language makes the dog ordinance less specific regarding time-frames, and allows its language to match our Chapter 11 Article 10 Noise Control Ordinance section on nuisance animals.

SUPPORTING DOCUMENTS: Attached are the proposed amended language to the Chapter 8 Article 2 Dog Ordinance- changes are in red and are on the second page of the document. Also attached is the Chapter 11 Article 10 Noise Control Ordinance for comparison.

INTERESTED PARTIES: Council, City Manager's Office

CITY MANAGER'S APPROVAL:

A handwritten signature in black ink, appearing to read "W. Hoffman", written over a horizontal line.

ARTICLE X. NOISE CONTROL

Sec. 11-1000. PROTECTING PUBLIC TRANQUILITY

Purpose: In order to preserve the peace and promote civility and to prevent hearing loss, sleep loss and a general reduction in the quality of life, Montpelier will protect the public tranquility.

Sec. 11-1001. PROHIBITIONS.

General Prohibitions: No person shall make or continue any excessive, unnecessary, unreasonably loud noise or disturbance, or any noise or disturbance which disturbs, destroys, or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance. Without limitations, the commission of one or more of the following acts, if done in such manner, shall be deemed a violation of this Article:

- (a) **Mobile, Portable or Outdoor Electronic Sound-producing Devices.** The playing or use of a mobile, portable or outdoor electronic sound-producing device in such manner or with such volume at any time and place so as to disturb, destroy or endanger the comfort, repose, or peace of persons. Evidence of such disturbance shall be the use of electronic sound producing devices that are operated in such a manner to be plainly audible at a distance of 50 feet in any direction from the operator.
- (b) **Vocal Disturbances.** Yelling, shouting, whistling, singing or making any other loud vocal disturbance so as to disturb, destroy, or endanger the comfort, quiet, repose or peace of persons in the immediate vicinity of the noise or disturbance. This section shall not be construed to prohibit a vocal disturbance, whether or not it is electronically amplified, by spectators or participants in an athletic event or assembly sponsored by a public or private school conducted on city or school property with proper permission by city or school officials.
- (c) **Devices to Attract Attention.** The use of any drum, musical instrument, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention. This section shall not be construed to prohibit the playing of musical instruments by students practicing or performing in a school band or orchestra, or other persons participating in an authorized parade or assembly in a public place, nor shall this section be construed to prohibit the sounding of any signaling device under the control of the City, a church or a school.
- (d) **Dogs, Cats and Other Animals.** The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming.
- (e) **Construction and Maintenance Sounds:** The excavation, erection, demolition, alteration, or repair of any buildings, structure, property or street between the hours of 9:00 P.M. and 7:00 A.M., except for necessary emergency construction and maintenance [see Sec. 11-1006 (f)] to protect property or persons.
- (f) **Trash Removal.** The removal of household and commercial trash by authorized commercial trash haulers utilizing mechanized conveyances within 500 feet from a residential receiver between the hours of 9:00 P.M. and 6:00 A.M.
- (g) **Compression Brakes:** The non-emergency use of compression brakes (also known as Jacob's brakes) by the trucks after 9:00 P.M. and before 6:00 A.M..
- (h) **General Property Line Standard:** This general property line standard is a numerical standard for

determining whether the sound from a particular source is a violation of this Article. The sound pressure level is measured at or within the property lines of a receiving property. When a sound exceeds the dBA sound level specified in Table A, it is a violation of this Article.

	TABLE A	
	<i>Time of Day</i>	<i>Time of Day</i>
<i>Receiving Property</i>	<i>6:00 AM to 9:00 PM</i>	<i>9:00 PM to 6:00 AM</i>
	<i>dBA</i>	<i>dBA</i>
Residential	60	55
Commercial/Industrial	65	65

Sec. 11-1002. EVIDENCE OF VIOLATION.

For the purposes of subsections (a), (b), (c), (d) and (e) of Section 11-1000, a noise or disturbance of such magnitude so as to be plainly audible in another building or in another dwelling unit located in the same building, shall be deemed prima facie evidence of a violation of this Article.

Sec. 11-1003. MUFFLERS.

A motor vehicle, including a motorcycle, moped, snowmobile, all-terrain vehicle, or other vehicle equipped with and propelled by engine, whether operated on a public street or on private property, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. A person shall not remove, destroy or damage any of the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass or similar device upon any such vehicle. Such vehicle shall at all times be equipped with a properly operating exhaust system which shall include a tail pipe and a resonator on a vehicle where the original design included a tail pipe and a resonator.

Sec. 11-1004. ENFORCEMENT.

(a) No owner or occupier of premises, or any person who has been given lawful permission to use or control any premises, shall knowingly permit a violation of this Article by another person on such premises.

(b) Any person violating the provisions of this Article shall be punished as provided in Section 1-9 of the Code. Notwithstanding, persons found in violation of Section 11-1000(f) may, within ten days from the date of such violation, admit the violation and waive the issuance of any process in a trial by court or by jury or hearing, by voluntarily paying to the City \$100 or by satisfying other conditions as may be imposed. The penalty after the expiration of the said ten-day period, but within thirty days from the date of such violation, shall be \$150, or by satisfying other conditions as may be imposed. After thirty days from the date of such violation, the penalty shall be established in Section 1-9.

Sec. 11-1005. VARIANCES.

Any person may apply to the City council for a variance from the requirements of this Chapter prior to doing those acts. The applicant shall provide a certified list of property owners within two hundred fifty (250) feet of the site(s) where the activity is to occur. Ten (10) days advance written notice of the Council meeting shall be provided to the property owners and residents appearing on the list. For good cause shown, the City Council may, in its sole discretion, either grant or deny the variance. If the variance is granted, the council may impose reasonable conditions to it.

Sec. 11-1006. EXEMPTIONS.

Sounds from the following sources shall be exempt from the prohibitions specified herein and shall not be included in any measurements performed to determine compliance with Table A of Section 11-1001(a):

- a. All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work including but not limited to police, fire and medical/rescue vehicle sirens.
- b. The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside of daytime hours.
- c. Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.
- d. Musical, recreational and athletic events conducted by and on the site of a school or education institution and municipal institutions.
- e. Events conducted by or permitted by the City. Persons operating an event under the authority of an entertainment permit, parade, street event, or special use permit shall comply with all conditions of such permits with respect to noise control issues.
- f. Construction or repair work which must be done to address an emergency health or safety concern and that can not be accomplished during daytime hours and which is not work which includes normal maintenance and repair.
- g. Equipment for maintenance of lawns and grounds during the hours of 7:00 A.M. to 9:00 P.M. (including but not limited to lawn mowers, hedge trimmers, weed whackers, chain saws and leaf blowers).
- h. Vehicles that meet state standards on the public right-of-way.

Sec. 11-1007. NOTIFICATION BY PROPERTY OWNERS OF RENTAL HOUSING.

Owners of rental housing shall be required to provide a copy of this ordinance to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the ordinance shall not be a defense to a violation of this section.

Sec. 11-1008. DEFINITIONS.

- a. Plainly Audible: Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.
- b. Residential Property or Receiver: Property used for human habitation or sleeping.
- c. Commercial/Industrial Property or Receiver: All other property, e.g. restaurants schools, churches.

- d. Background Level: The composite of all sounds exclusive of the sound under evaluation.
- e. dBA: The sound pressure level measured using the A weighting network as prescribed by the American National Standards Institute.
- f. Receiving Property: The location that is receiving the sound in question.
- g. Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.
- h. Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- i. Noise: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Sections 11-1009 to 11-1099. Reserved.

Enacted August 10, 1983.

Amendment enacted August 22, 1990 [Sec. 11-1000, Subsection (f) added; Sec. 11-1004, Subsection (b) rewritten]. Date of Publication: 8/30/90. Effective Date: 9/5/90.

Amendment enacted March 11, 1998 [Sec. 11-1000, Subsection (g) added; Sec. 11-1002, ACTS NOT SPECIFICALLY PROHIBITED, deleted; and Sec's. 11-005. VARIANCES, 11-006. EXEMPTIONS and 11-1007. NOTIFICATION BY PROPERTY OWNERS OF RENTAL HOUSING added.] Date of Publication: 3/23/98. Effective Date: 3/29/98.

Amendment enacted December 11, 2002 [Entire ordinance rewritten]. Date of Publication: 12/19/02. Effective Date: 12/25/02.

ARTICLE II. DOG AND ANIMAL CONTROL ORDINANCE

Sec. 8-200. ORDINANCE INDEX.

8-201.	Authority and Purpose
8-202.	Definitions
8-203.	Calculation of Offenses
8-204.	Licensing
8-205.	Penalties for Failure to License
8-206.	Enforcement
8-207.	Running at Large Prohibited
8-208.	Penalties for Running at Large
8-209.	Duties of Enforcement Officers and Persons Having Control of Impoundment
8-210.	Conditions of Release from Impoundment
8-211.	Dogs as a Nuisance
8-212.	Penalties for Nuisance Dogs
8-213.	Potentially Dangerous Dogs
8-214.	Penalties for Potentially Dangerous Dogs
8-215.	Dangerous Dogs
8-216.	Investigation of Dogs or Domestic Pets which have Bitten or Seriously Injured a Person
8-217.	Penalties for Dangerous Dogs and Bites Requiring Medical Attention
8-218.	Waste Removal
8-219.	Penalties for Failure to Remove Waste
8-220.	Management and Impoundment of Animals Exposed to Rabies or Suspected of Being Infected
8-221.	Repeal of Conflicting Ordinances
8-222.	Separability of Provisions
8-223.	Effective Date

Sec. 8-201. AUTHORITY AND PURPOSE.

The ordinance is adopted by the City Council of the City of Montpelier under authority granted pursuant to 20 V.S.A. §§ 3546, 3549, 24 V.S.A. §§ 2291(10), (14), (15), and (21), 24 V.S.A. Chapter 59, 24 App. V.S.A. § ch. 5, §§ 301(b)(2), (5), and (8), 24 App. V.S.A. §§ ch. 5, § 701, 702, 705, and 707.

Purpose. The purpose of this ordinance is to protect the health, safety, and welfare of the public, domestic animals, and dogs of the City of Montpelier by regulating dogs and domestic animals, public nuisances, and to protect the quiet enjoyment of its residents' homes and property.

Sec. 8-202. DEFINITIONS.

1. "Animal Control Committee" or "ACC" shall mean a Committee appointed by the City Council for the purpose of determining a recommended course of remedial action for dogs and owners with violations after sufficient police investigation in order to maintain public safety consistent with provisions of this ordinance. The ACC shall be composed of 5 individuals: the Health Officer, the Police Chief or designee, 2 qualified volunteers (i.e., veterinarian, veterinary behaviorist, or certified animal behaviorist), and 1 other appointee. In the event that qualified volunteers are not available, the City will contract with professionals to fill the qualified volunteer appointments.
2. "Dangerous" shall mean any dog who, when unprovoked:
 - a. inflicts a serious injury on, or kills a domestic animal; or
 - b. inflicts an injury on a person which requires medical attention.
 - c. on two separate occasions within a twelve (12) month period, is in violation of this ordinance as a "potentially dangerous" dog, as defined in this ordinance.

This definition shall not apply if the dog was protecting or defending itself, was in reaction to pain or an injury, protecting its offspring, another domestic animal or a person, or protecting its owner's property from attack or assault, or the person attacked or threatened by the dog was engaged in teasing,

tormenting, battering, assaulting, injuring, or otherwise provoking the dog.

3. “Dog” shall mean any member of the canine species or “wolf-hybrid” as defined in this ordinance. For purposes of this ordinance, this term, whenever used, shall also include “working farm dogs” except where specifically exempted.
4. “Domestic animal” shall mean any “domestic pet” as defined in this ordinance, cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, partridge, Coturnix quail, psittacine birds, ferret, camelids, ratites, and water buffalo, and cultured trout propagated by commercial trout farms.
5. “Domestic pet” or “pet” shall mean any dog, cat, or ferret. The term shall also include such other domestic animals as the State of Vermont establishes by rule.
6. “Enforcement Officer” shall mean any police officer, animal control officer, or any other person designated as Enforcement Officer by the City Council.
7. “Montpelier Community Justice Center” or “MCJC” shall mean the department of the City of Montpelier known as the Montpelier Community Justice Center that operates programs and provides services that build and support the community’s capacity to be accountable to one another and respond to destructive behavior in ways that help repair harm.
8. “Nuisance” shall mean any dog ~~or domestic pet~~ that:
 - a. chronically disturbs the quiet, comfort, and repose of others ~~by frequent or continued barking, howling, yelping or screaming barking, whining, calling, or howling for a continuous period of twenty (20) minutes or more.~~ This definition shall not apply to: (1) dogs in a kennel/boarding facility which has received a zoning permit under the City’s Zoning Regulations; or (2) “working farm dogs” barking in order to herd or to protect livestock or poultry or to protect crops.
 - b. causes damage to property.
9. “Owner” shall mean any person or persons, firm, association, or corporation owning, keeping, or harboring a dog; or any person or persons, firm, association, or corporation who has actual or constructive possession of a dog.
10. “Potentially Dangerous” shall mean any dog who when unprovoked:
 - a. chases, threatens to attack, or attacks another domestic animal;
 - b. chases, threatens to attack, or attacks another person;
 - c. causes a person to reasonably fear attack or bodily injury from such dog;
 - d. inflicts an injury on a person that does not require medical attention; or
 - e. causes damage to personal property as a result of aggressive behavior.For purposes of this definition, vocalization or barking, alone, shall not cause a dog to be deemed potentially dangerous. This definition shall not apply if the dog was protecting or defending itself, was in reaction to pain or an injury, protecting its offspring, another domestic animal or a person, or protecting its owner’s property from attack or assault, or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog.
11. “Rabies Suspect” means a dog or domestic animal that:
 - a. is suspected of having been exposed to rabies;
 - b. is believed to have been attacked by another animal which may be rabid;
 - c. has been attacked by a wild animal; or
 - e. has an unknown rabies vaccination history.
12. “Running at large” or “run at large” shall mean any dog that is off the premises of the owner and not:
 - a. on a leash if on a City street, sidewalk, or bike/recreation path;
 - b. clearly under the verbal or non-verbal control and in sight of the owner who has a leash in

- c. their possession, when not on a City street, sidewalk or bike/recreation path;
in a vehicle;
- d. on the premises of another person with that person's permission; or
- e. hunting with the owner.

This definition shall not apply to “working farm dogs” running at large in order to herd or protect livestock or poultry or to protect crops. This definition shall not apply to Hubbard Park if dogs are in compliance with the Hubbard Park Canine Code of Conduct (CCC) as promulgated by the Parks Commission.

- 13. “Wolf-hybrid” shall mean an animal that is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*); an animal that is advertised or otherwise described or represented to be a wolf hybrid; or an animal that exhibits primary physical and/or behavioral wolf characteristics.
- 14. “Working farm dog” shall mean a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to State law.

Sec. 8-203. CALCULATION OF OFFENSES.

For purposes of calculating sequence of offenses of any violation of this ordinance, second, third, and fourth offenses shall be those that occur within a 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense, unless specifically noted otherwise. Offenses shall be counted against the owner.

Sec. 8-204. LICENSING.

No dog shall be kept within the limits of the City of Montpelier, County of Washington, State of Vermont, unless such dog is licensed in accordance with the statutes of the State of Vermont. Dog license fees shall be set at \$5 above the amount set by the State of Vermont.

Sec. 8-205. PENALTIES FOR FAILURE TO LICENSE.

The penalties for violating Section 8-204 of this ordinance (failure to license a dog) shall be as follows:

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| 1 st Offense: | Formal warning. |
| 2 nd Offense: | Fine of \$100. Waiver fine of \$50. |
| 3 rd Offense: | Fine of \$200. Waiver fine of \$100. |
| 4 th and Subsequent Offenses: | Fine of \$500. Waiver fine of \$250. |

Sec. 8-206. ENFORCEMENT.

Any violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau in Washington County Superior Court at the election of the Chief of Police or Enforcement Officer. In addition to, or alternatively, the Chief of Police or Enforcement Officer may refer violators of this ordinance to complete a restorative process with the Montpelier Community Justice Center.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. 1974a and 1977 et seq. For purposes of enforcement in Judicial Bureau, any Enforcement Officer shall have authority to issue tickets and represent the City at any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The City of Montpelier may pursue all appropriate injunctive relief.

Sec. 8-207. RUNNING AT LARGE PROHIBITED.

It shall be unlawful for the owner of any dog to permit such dog to “run at large” as defined in this ordinance.

Sec. 8-208. PENALTIES FOR RUNNING AT LARGE.

The penalties for violation of Section 8-207 (“running at large”) shall be as follows:

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| 1 st Offense: | Formal warning. |
| 2 nd Offense: | Fine of \$250. Waiver fine of \$125. No fine shall be levied if the owner completes a restorative process with the Montpelier Community Justice Center and completion of restorative process is certified by the MCJC. |
| 3 rd Offense: | Fine of \$450. Waiver fine of \$225. The fine shall be reduced to \$150 if the owner completes a restorative process with the MCJC and completion of restorative process is certified by the MCJC. |
| 4 th and Subsequent Offenses: | Fine of \$500. Waiver fine of \$250. In addition, violators shall participate in meetings of the Animal Control Committee and follow the Committee’s recommendations. |

Sec. 8-209. DUTIES OF ENFORCEMENT OFFICERS AND PERSONS HAVING CONTROL OF IMPOUNDMENT.

Any Enforcement Officer within the City of Montpelier shall have the authority to seize, impound, or restrain any dog in violation of this ordinance and deliver such dog to the person or organization duly authorized or contracted to have control of impounding. If the owner of such dog is known or can be located with reasonable diligence, then the Enforcement Officer who impounds a dog shall give notice to the owner, either personally, by telephone call, or by written notice at the owner’s dwelling, within twenty-four (24) hours of the receipt of such dog.

If the owner of such dog is not known or cannot be located with reasonable diligence, then the Enforcement Officer who impounds a dog shall post, within twenty-four (24) hours, public notice. Notification shall be posted for at least a ten (10) day period. Notification shall be posted in the City Clerk’s Office, other usual places in City Hall, and on the City’s website. Notification shall include a description and photo image of the dog, stating where it is impounded, and declare that unless the owner claims the dog, and takes all necessary action pursuant to Section 8-210 “Conditions of Release from Impoundment” within ten (10) days following the posting, the City may place the dog in an adoptive home, transfer it to a humane society or rescue organization, or dispose of it through euthanasia.

The Enforcement Officer having control of impounding shall keep a record of every dog disposed of by sale, adoption, transfer, or otherwise. Such record shall include (a) a description including a photo image which identifies the dog with reasonable certainty; (b) the manner of disposing of the dog; and (c) if the dog was transferred or adopted by another person or organization the name and address of the transferee. In addition, the transferee must sign a statement giving his/her name, address, and the date of delivery or receipt of the dog.

Any Enforcement Officer may order a dog impounded or kept within the owner’s residence pending: (1) an order of the City Council pursuant to an investigation under Section 8-216; or (2) a determination of a recommendation by an Animal Control Committee referral.

Sec. 8-210. CONDITIONS OF RELEASE FROM IMPOUNDMENT.

Before an impounded dog may be released to the owner or transferred to another person or organization, the following requirements must be met: (a) such dog shall be vaccinated with anti-rabies vaccine, unless there is proof of vaccination within the previous year; (b) such dog must be licensed in accordance with the statutes of the State of Vermont; and (c) the owner or transferee shall pay to the City Treasurer of Montpelier the sum of the following charges:

1. \$150.00 transportation charge;
2. Vaccination charge, if applicable;

3. License fee, if applicable;
4. Penalties and Fines, if applicable; and
5. Impoundment costs.

In addition to the above conditions of this Section, completion of remedial action as ordered by the City Council pursuant to Section 8-216, or the Animal Control Committee, where applicable, may be required prior to release of an impounded dog to such owner or transferee.

Sec. 8-211. DOGS AS A NUISANCE.

The owner of a dog shall not allow their dog to be or create a “nuisance” as defined in this ordinance.

Sec. 8-212. PENALTIES FOR NUISANCE DOGS.

The penalties for violation of Section 8-211 (“nuisance” dogs) shall be as follows:

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| 1 st Offense: | Formal warning. |
| 2 nd Offense: | Fine of \$200. Waiver fine of \$100. No fine shall be levied if the owner completes a restorative process with the Montpelier Community Justice Center and completion of restorative process is certified by the MCJC. |
| 3 rd Offense: | Fine of \$450. Waiver fine of \$225. The fine shall be reduced to \$150 if the owner completes a restorative process with the MCJC and completion of restorative process is certified by the MCJC. |
| 4 th and Subsequent Offenses: | Fine of \$500. Waiver fine of \$250. In addition, violators shall participate in meetings of the Animal Control Committee and follow the Committee’s recommendations. |

Sec. 8-213. POTENTIALLY DANGEROUS DOGS.

The owner of a dog shall not allow their dog to be “potentially dangerous” as defined in this ordinance.

Sec. 8-214. PENALTIES FOR POTENTIALLY DANGEROUS DOGS.

The penalties for violation of Section 8-213 (“potentially dangerous” dogs) shall be as follows:

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| 1 st Offense: | Fine of \$450. Waiver fine of \$225. The fine shall be reduced to \$150 if the owner completes a restorative process with the MCJC and completion of restorative process is certified by the MCJC. In addition, violators may be required to participate in meetings of the Animal Control Committee and follow the Committee’s recommendations. |
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Sec. 8-215. DANGEROUS DOGS.

The owner of a dog shall not allow their dog to behave in a “dangerous” manner as defined by this ordinance. A person claiming a dog is “dangerous” may file a written complaint with the City Council, Enforcement Officer, or Police Department. The complaint shall contain the time, date, and place where the alleged behavior occurred, an identification of the domestic animal or dog injured, the name and address of any person or people injured, and any other facts that may assist the investigation.

Upon receipt of a complaint of a “dangerous” dog, the City Council shall proceed as described under Section 8-216, with the exception that if the dog is found “dangerous” as a result of two separate “potentially dangerous” violations as defined in this ordinance, the City Council and/or Animal Control Committee may order any protective measures be

taken absent the dog being euthanized.

Sec. 8-216. INVESTIGATION OF DOGS OR DOMESTIC PETS WHICH HAVE BITTEN OR SERIOUSLY INJURED A PERSON.

When a dog or domestic pet has bitten a person while the dog or domestic pet is off the premises of the owner or keeper, and the person bitten requires medical attention, the person bitten may file a written complaint with the City Council, Enforcement Officer, or Police Department who shall, within seven (7) days, investigate the incident pursuant to 20 V.S.A. § 3546. The written complaint must contain the time, date, place of the incident, and any other facts that may assist the investigation.

The City Council shall hold a hearing on the matter. If the owner of the dog or domestic pet which is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date, and place of the hearing and a copy of the complaint.

If the dog or domestic pet is found to have bitten, or seriously injured the victim without provocation, the dog or domestic pet shall be deemed “dangerous” and the owner shall be fined pursuant to Section 8-217 of this ordinance. In addition, the City Council shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the dog or domestic pet is disposed of in a humane way (euthanized), muzzled, or confined. The City Council may also refer the incident to the Animal Control Committee for recommendation or further remedial action.

An order for euthanasia may only be given upon the recommendation of the Animal Control Committee, and only after the Committee has consulted with a certified animal or veterinary behaviorist and that individual has determined euthanasia is the only appropriate remedy.

Any order shall be sent to the owner by certified mail, return receipt requested. The City Council may seek enforcement in Superior Court against a person who, after receiving notice, fails to comply with the terms of any order by the City Council and/or Animal Control Committee.

The procedures in this Section shall only apply if the domestic pet or dog is not a “rabies suspect” as defined in this ordinance. If the dog or domestic pet is a rabies suspect then of Section 8-220 shall apply.

Sec. 8-217. PENALTIES FOR DANGEROUS DOGS AND BITES REQUIRING MEDICAL ATTENTION.

If a dog has been deemed “dangerous,” or if a dog or domestic pet has been found to be violation of Section 8-216, the penalties shall be as follows:

1 st and Subsequent Offenses:	Fine of \$600. Waiver fine of \$300. In addition, violators shall participate in, where applicable, City Council and Animal Control Committee meetings and follow any orders and recommendations of such bodies, respectively.
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Sec. 8-218. WASTE REMOVAL.

The owner of any dog which defecates in any public area or on the private premises of another person shall remove such material immediately and dispose of it in a sanitary manner.

Sec. 8-219. PENALTIES FOR FAILURE TO REMOVE WASTE.

The penalties for violation of Section 8-218 (“waste removal”) shall be as follows:

1 st Offense:	Fine of \$75. Waiver fine of \$40.
2 nd Offense:	Fine of \$100. Waiver fine of \$50.
3 rd and Subsequent Offenses:	Fine of \$150. Waiver fine of \$75.

Sec. 8-220. MANAGEMENT AND IMPOUNDMENT OF ANIMALS EXPOSED TO RABIES OR SUSPECTED

OF BEING INFECTED.

Application. The procedures provided in this Section shall apply to an animal that is a “rabies suspect” as defined in this ordinance.

Procedure. If an Enforcement Officer determines that an animal is a rabies suspect, the City Council and Enforcement Officer shall immediately notify the Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health relating to rabies. A rabies suspect shall be managed by the Health Officer or Deputy Health Officer in accordance with 20 V.S.A. 3801 and related Rules adopted by the Vermont Department of Health.

Costs. All costs associated with the impoundment and management of the rabies suspect shall be borne by the owner. If no owner is found, then the City shall be responsible for the costs, and if at a later date, the owner is found, then those costs plus interest shall be the responsibility of the owner and reimbursed to the City upon receipt of an invoice from the City.

Sec. 8-221. REPEAL OF CONFLICTING ORDINANCES.

All existing ordinances of the City of Montpelier are hereby repealed insofar as they may be inconsistent with the provisions of this ordinance.

Sec. 8-222. SEPARABILITY OF PROVISIONS.

It is the intention of the City that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

Sec. 8-223. EFFECTIVE DATE.

This ordinance shall be effective 15 days after passage as per 24 App. V.S.A. ch. 5, § 702(c) of the City Charter.

See's. 8-211 to 299. Reserved.

Enacted: December 8, 1976.

Effective Date: January 1, 1977.

Amended and Corrected: March 9, 1977.

Amendment enacted October 11, 1978 [Sec. 8-202]. Date of Publication: 10/18/78. Effective Date: 10/24/78.

Amendment enacted November 9, 1988 [Sec. 8-205, PENALTIES, increased]. Date of Publication: 11/21/88.

Effective Date: 1/01/89.

Amendment enacted May 8, 1991 [Sec. 8-205, PENALTIES, increased]. Date of Publication: 5/16/91. Effective Date: 5/22/91.

Amendment enacted June 23, 1993 [Sec. 8-205, PENALTIES, increased]. Date of Publication: 7/05/93. Effective Date: 7/11/93.

Amendment enacted September 22, 1999 [Sec. 8-210, DEFECATION, added]. Date of Publication: 10/04/99.

Effective Date: 10/10/99.

Amendment enacted January 15, 2014 [Sec. 8-210, title changed to PET WASTE; (a) and (b) rewritten]. Date of Publication: 1/28/14. Effective Date: 2/03/14.)

Amendment enacted August 10, 2016 [Existing Dog Ordinance repealed; entire Article II, Dog Control Ordinance, Rewritten].

Effective Date: August 25, 2016

Amendment enacted February 14, 2018 [Date of Publication: February 20, 2018. Effective Date: March 2, 2018