

Excerpt from
Laws of Vermont 1852

No. 85.—AN ACT TO INCORPORATE THE CITY OF BURLINGTON.

SECTION

1. Certain part of town of Burlington incorporated into a City. — Powers of corporation
2. The other part of said township to be a separate town by name of South Burlington; organization of new town. Officers of city, and their powers.
3. The city to be divided into five wards; a new division to be made every five years.
4. Ward officers to be elected.
5. Powers of the Mayor prescribed. Salaries of officers regulated.
6. Powers of aldermen and common council.
7. Duties of city clerk regulated.
8. Powers of city treasurer.
9. Powers of city collector.
10. Powers of city attorney.
11. Powers of assessors of taxes.
12. Powers of city constable.
13. Powers of street commissioners. Regulations concerning streets and highways.
14. Enactment of ordinance, &c. regulated. Penalties for violations of ordinances.
15. Disbursements from the treasury regulated.
16. Board of aldermen to assess taxes, and may grant licenses.

SECTION

17. The city council may impose additional tax. Provisions concerning the incurring of debts.
18. Schools and school districts, how regulated.
19. Meetings of the boards of aldermen and common council, and ward meetings, how called.
20. Recorder, justices of the peace, and a representative to the General Assembly to be elected. Police Court constituted; its powers.
21. Annual election of officers. Overseers of the poor to be chosen. — Vacancies how filled.
22. Said city of Burlington and said town of South Burlington to decide, in meetings to be held for the purpose, upon accepting or rejecting this act.
23. List of legal voters to be made out, and no person allowed to vote whose name is not on such list.
24. Organization of the city.
25. After organization, the powers of selectmen to cease. Actions now commenced not to be affected. Provisions for division and apportionment of the property, liabilities and paupers of Burlington.
26. Sale or lease of real estate of the city authorized and regulated.
27. Inhabitants may be witnesses and jurors where the city is a party.
28. This act a public act. Subject to control of Legislature.

It is hereby enacted by the General Assembly of the State of Vermont, as follows:

SEC. 1. So much of the existing town of Burlington, and of the waters of Lake Champ adjacent thereto, as are embraced within the following limits, viz: Beginning in the westerly line of hundred acre lot No. 159, at high water mark on Lake Champlain, thence easterly in the south line of said lot, and in the south line of twenty-three acre lots No. 30, 28 and 29, to the south east corner of said lot No. 29, and thence in continuation of the south line of said lot No. 29 to the east line of Spear street, thence northerly in a straight line to the north line of Winooski Turnpike; in the angle formed by the north line of said turnpike and the east line of the road leading north easterly to Winooski Lower Falls, thence in a straight line to the centre of the mouth of the brook emptying into Winooski river, east of Winooski Lower Falls, thence continuing said line to the center of Winooski river, thence in the center of Winooski river down said river to Lake Champlain, thence southerly on the lake shore at low water mark, to the westernmost part of Appletree point, thence in a straight line southerly, to the westernmost point of Red-Rocks point, thence northerly, on the lake shore, at high water mark, to the place of beginning, shall be known hereafter by the name of the City of Burlington, and its citizens shall be a body politic and corporate, under the name of the City of Burlington, and may sue and be sued, complain and defend in any court, may use a common seal, and alter it at pleasure, may take, hold, purchase and convey such real estate as the purpose of the corporation may require, may elect a representative to the General Assembly of this State, and, generally, shall have, exercise, and enjoy all such rights, immunities, powers and privileges as are conferred upon or incident to, and be subject to such duties and obligations as appertain to or are incumbent on, towns in this State, except so far as provided for by this act.

SEC. 2. From and after the organization of the City of Burlington as provided in this act, the territory described in the first section shall cease to form any part of the town of Burlington, and the remaining part of said town shall be and remain a separate town by name of the town of South Burlington and the present selectmen of the town of Burlington shall be selectmen of the town of South Burlington aforesaid until others are elected, and shall warn a meeting of the legal voters thereof, on application of six freeholders, as such time and place as they may fix upon, in the same manner that town meetings are warned by law, for the election of all necessary town officers, and when such election shall be made, the said town shall be organized, and thereupon the official duties of the present selectmen and other officers superceded by such election shall be determined. The administration of all the fiscal, prudential municipal affairs of said city, with the government thereof, shall be vested in one principal officer, to be styled the mayor; one council of five members, to be styled the board of aldermen; and one council of fifteen members, to be styled the common council, which boards, in their joint capacity, shall be called the city council, and they shall be chosen annually, and the faithful performance of their respective offices. A majority of each board shall constitute a quorum for the transaction of business. Each board shall be the judge of the election and qualification of its own members, and no member of either board shall receive any compensation for his services.

SEC. 3. The aforesaid City of Burlington shall be divided into five wards, containing, as nearly as may be with convenience, an equal number of inhabitants. The first division shall be made by the selectmen of the town of Burlington, within twenty days after the acceptance of this charter, according to its provisions. In making said division, the selectmen shall not run the lines of division across the division lines of the school districts, now established, so far as that can be avoided conveniently. At the end of every period of five years, after the organization of the city, the city council shall make a new division of the wards, according to population as aforesaid.

SEC. 4. The ward officers shall be a warden or presiding officer, a clerk, and three inspectors of elections, all to be chosen annually by each ward, to be under oath, to hold their offices respectively to the end of the year, or until others are chosen.

SEC. 5. The mayor shall be the chief executive officer of the city. He shall use his best efforts to see that the laws are enforced, that the duties of all subordinate officers are faithfully and properly performed, shall take care that the finances of the city are properly expended, and shall bring before the proper boards whatever he may deem worthy of their attention for prudently and efficiently carrying on the affairs of the city. — The

salary of the mayor shall not exceed three hundred dollars per annum for the first year till there be a new election. The city council may determine the salary of the mayor for the year next ensuing, and the remuneration of all officers appointed by them; but no office to which any salary or remuneration is attached, shall be filled by any one of their own number. The mayor shall be the presiding officer, when present, of the board of aldermen, and of the boards of aldermen and common council, when acting in convention, and shall have a casting vote, but no other. The mayor shall have power to remit fines in cases where the same are payable into the city treasury, and shall cause the reasons for such remission to be entered on the proper record.

SEC. 6. The boards of aldermen and common council shall have power to make all such ordinances, by-laws and regulations, and to inflict penalties for the breach thereof, as they may deem necessary and expedient, relating to foreign paupers, vagrants, disorderly persons, a board of health, a fire department, and for the good order and efficient government of the city.— And all fines and forfeitures incurred for the breach of such ordinances shall belong to the city treasury. The city council in convention shall elect a treasurer of the city, a collector of taxes, and a city attorney, a clerk of the city, who shall be ex officio clerk of the board of aldermen and also of the city council acting in convention, assessors of taxes, a constable or constables, who shall have the powers of police-officers, may establish a board of health, organize a fire department and appoint a complement of engineers and firemen, a street commissioner or commissioners, and all such other subordinate officers for the good of the city as may be lawfully appointed by towns, may prescribe their duties, and assign their remuneration. All such officers shall be appointed annually and oftener if vacancies occur, but any one may be removed at any time by the city council, for just cause, and another appointed in his stead: provided, that the mayor, or in his absence the board of aldermen, may appoint special police officers for particular emergencies, when the good of the city shall require it. The treasurer, collector of taxes, city attorney, and all other persons receiving money for the city, may be required to give bonds for the faithful performance of their duty, according to the discretion of the board of aldermen.

SEC. 7. The city clerk shall perform for the city the same duties that are required to be performed by town clerks in this State, he shall be sworn to the faithful performance of his duty, and his records, copies and certificates shall be legal evidence in all courts and for all purposes, as those of town clerks are.

SEC. 8. The city treasurer shall have the the same powers and be subject to the same liabilities in the city as town treasurers have in, and are subject to in, the towns in this State of which they are treasurers.

SEC. 9. The collector of city taxes shall have the same powers and be subject to the same liabilities in and for the city as collections of town taxes in this State by law have and are subject to, and they shall proceed in the performance of their duties as said collectors of town taxes are required to proceed.

SEC. 10. The city attorney is authorized to file information in the police court in the usual form of law, for all offences cognizable by judgment and execution.

SEC. 11. The assessors of taxes shall have the same powers and proceed in the same manner and be subject to the same liabilities, in assessing the property within the city and making the grand list thereof, as listers in towns have and are required to proceed in and are subject to, and shall return such list to the city clerk, within the time required for lists to be returned to town clerks.

SEC. 12. The city constables shall have the same powers to serve and execute legal processes that constables of towns have by law, and the said constables and all special police officers shall have the same powers of suppressing riots and all unlawful assemblages, and of arresting without warrant all such persons, as sheriffs of this State have, for disturbing the peace, and may bring them before the police court of the city forthwith, or detain them in the county jail until said court can be held, and such court may proceed summarily to hear and determine all such cases, in the same manner as they may with persons apprehended on warrant.

SEC. 13. The street commissioners of the city shall have the same powers as highway or street commissioners for the city, as such commissioners have in towns where they elect such commissioners, and be subject to the same liabilities; and may lay out, alter, repair and discontinue highways or street in the city, and in laying out, repairing or altering streets or highways, they shall have power, on giving reasonable notice to the parties of the time and place of hearing, to assess the owners of lands adjoining such street or highway so much

of the expenses of opening, making, altering, or repairing such highway or street, as the said commissioners shall judge the lands of such owners respectively are benefited thereby. In laying out, opening or altering streets or highways, such commissioners shall proceed in all things as is required of selectmen to do, in laying out, opening and altering highways: *Provided*, however, that they may order the opening of such highways for work and travel through cultivated lands, within such time as they may deem the public good to required, by first paying or tendering to the owner of such damages to the growing crops, as well as land damages, as to them shall seem just. – From the decision of the commissioners aforesaid any party aggrieved may have the right of appeal to the city council if said appeal is made within thirty days. The city council, after full hearing, shall make decision on the whole matter brought before them in such appeal, and their decision shall be final.— And if the owner of such lands, so assessed as aforesaid, shall neglect for the space of thirty days after the final decision to pay said assessment, the commissioners may issue their warrant for the collection of the same, directed to the collector of city taxes, who shall have authority to sell, at public auction, so much of such land as will satisfy said assessment, and all legal fees, and who shall proceed in the same manner as collectors of town taxes are required by law to proceed in selling real estate at auction for the collection of town taxes.

SEC. 14. For the enacting of all ordinances, and the transacting of many other business not otherwise provided fro, the mayor and aldermen shall constitute one board, and common council men another board. The board of common council shall choose from time to time its presiding officer and clerk, to serve during the pleasure of the board. Fro the enacting of any ordinance or regulation as aforesaid, a concurrent vote of the two boards shall be necessary, each board having a negative upon the other. All ordinances of the city shall be published under the authority of the mayor twenty days before they take effect. All meetings of the boards shall be public, except when assembled for executive business. No fine shall be imposed for violation of any city ordinance or regulation, exceeding twenty-five dollars: *provided*, that when it may be necessary to abate a nuisance, the expense of the abatement may be imposed on the delinquent, in addition to said fine; and if any person shall violate any city ordinance, he may, on conviction thereof, be imprisoned In the common jail in the County of Chittenden, fro a term not exceeding sixty days, in the discretion of the court, in addition to said fine. If the delinquent shall neglect to pay any fine and costs legally imposed on him, he shall be committed to such jail until the sentence is complied with, or until he shall pay the same, or be otherwise legally discharged from such imprisonment.

SEC. 15. No money shall be paid out of the treasury, save on warrant, signed by the mayor, or by some other officer, under authority from the board of aldermen. A full record of all expenditures shall be kept, and clear statement of all outlays of the city monies, and of its affairs generally, shall be published under direction of the mayor, each year, at least two weeks before the annual election of the mayor and city council.

SEC. 16. The board of aldermen shall assess on the grand list of the city all state, state school, county and highway taxes, required by law to be assessed on the several towns by their selectmen, and all warrants for the collection of taxes shall be signed by the mayor, or in case of his absence, by the president pro tem. Of the board of alderman. The board of aldermen shall have the same power to grant and revoke licenses that by lay is given to the selectmen of towns; and all sums paid for such licenses, and fines recovered for violations of the license laws, within the city , shall belong to the city treasury.

SEC. 17. The city council may cause to be assessed, in addition to the taxes required by law to be assessed upon the grand list of the city, annually, twenty-five cents on the dollar, and no more, for city purposes, except as authorized by a majority of the legal voters of the city. The money so raised, with such other sums as are raised by a tax on the city under the laws of the State, and whatever may be raised from fines lawfully imposed and collected, and from other lawful sources, is to constitute the entire sum from which appropriations and payments are to be made, according to law, by or under the authority of the city council. The city council shall incur no debt against the city beyond what shall have been provided for by legal assessment, without authority of a majority of the legal voters of the city, nor shall the whole amount of debt against the city incurred, allowed or remaining unprovided for by annual assessment, as aforesaid, by authority of the legal voters of the city, be more at any one time than twenty thousand dollars.

SEC. 18. No change shall be made in the rights or powers of school districts within the limits of the city, except that after the present year the board of aldermen shall have the same powers in respect to them which

selectmen have in towns, and the same charge of the distribution of public monies to them, the preservation and care of funds appropriate to the use of schools, and the assessing and distribution of taxes for schools shall then come within the charge and control of the board of aldermen aforesaid.

SEC. 19. The boards of aldermen and common council shall be convened at least once in each month, under warrant from the mayor (or other officer properly designated by the board of aldermen or by-laws in case of absence or inability of the mayor,) for the transaction of business, and oftener, if the public good require it. All warrants for annual or special ward meetings for the election of officers of the city or ward, and for all the elections of state and county officers, and for elections to be held under the authority of the United States, unless otherwise provided for by law, for raising additional taxes and for other lawful business, shall be made by the mayor or other officer designated by the by-laws of the city, and in the manner prescribed by them but the first ward meetings, to be held for the election of city officers, shall be called by the selectmen of the town of Burlington. The mayor shall issue his warrant for a general meeting of the inhabitants for any constitutional or legal purpose to be set forth in such warning whenever requested to do so in writing by thirty legal voters of the city.

SEC. 20. There shall be chosen annually by ballot from among the legal voters of the city, a recorder, and so many justices of the peace as the law allows to a town of equal population to that of the city, and a representative to the General Assembly. The recorder shall be elected at the annual meeting of the city, and the justices of the peace and the representative aforesaid shall be elected at the time and in the manner provided by the laws of this State. A police court shall be holden at a place and time designated by the board of aldermen, at least once in each week, and shall be open at all times for the examination and trial of criminals, and shall be held by the recorder, or in case of his absence or inability to attend, by any justice of the peace within the city who shall have been appointed by the mayor to hold the police court in case of the absence or disability of the recorder. The recorder shall have all the powers and jurisdiction that a justice of the peace has within the county of Chittenden by the laws of this State, and the police court shall have exclusive jurisdiction of all complaints and prosecutions for violations of city ordinances and regulations, and from its decisions thereon there shall be no appeal or review, and of all prosecutions for fines, penalties and forfeitures incurred, and of all criminal offences committed within the city, cognizable by justices of the peace by the laws of the State, and shall have power to sentence persons convicted of any such crimes before said court, to hard labor in the house of correction of said city, for a term not exceeding sixty days, and to pay costs of prosecution, in the discretion of said court, according to the nature and aggravation of the offence, and may order execution of the same. The remuneration of the recorder, and justices holding said court, shall be derived from fees and costs taxed in said court, according to law, to be limited in amount by the board of aldermen. And all the fines, penalties and forfeitures collected in said court, shall be paid in to the city treasurer, and belong to the city: *Provided*, that exceptions to the decisions of the police court on questions of law, may be taken to the Supreme Court, in the same manner, and under the same regulations, that exceptions are allowed from the county to the Supreme Court, and where exceptions are allowed, the respondent may be admitted to bail in such sum, with sufficient sureties, as the police court shall determine and require, conditioned that he shall appear and abide such final judgment as shall be rendered in the case, either by the Supreme Court or police court.

SEC. 21. The citizens residing in said city, who have the qualifications of legal voters in town meetings, shall be the legal voters of the city. The annual election of the officers of the city shall be holden on the first Tuesday in April, in each year, except as provided in this act, to be held in the several wards, at an appointed place, and at the same hour in each ward. At such annual election there shall be chosen by ballot, from the legal voters of each ward, one alderman, and three common council men, and votes given for mayor and recorder. Returns of said elections shall be made under the signatures of the clerk and inspectors of elections of the several wards, to the clerk of the board of aldermen, unless otherwise provided. A majority of voters in each ward shall be necessary for the election of aldermen and common council men, and if the choice is not made by the first balloting, the balloting may be continued until an election is made. A majority of all the legal votes cast in all the wards for mayor and records shall be necessary for a choice. If no choice is made of mayor or recorder, a new election shall be ordered by the mayor, and so on till an election is effected. After the first year there shall be chosen by ballot in each ward an overseer of the poor. The mayor, with the several overseers so

chosen, shall constitute a board of overseers of the poor for the city. All officers of the city elected by the citizens as aforesaid according to this and the preceding sections, shall hold their offices till others are chosen, unless such office becomes vacant by death, resignation, change of residence, or inability to serve. No person elected as aforesaid shall refuse or decline to serve, without being subject to a fine of twenty dollars, to be paid into the city treasury. Whenever a vacancy shall occur in the office of alderman, in any ward, a new election of one in that ward for the rest of the year shall be ordered by the mayor, within a reasonable time, and the same for electing common council men, if the place of more than one becomes vacant in any ward. In case of death, resignation or permanent inability to serve on the part of the recorder, his place shall be filled by the city council for the remainder of the year, from among the justices of the peace of the city.

SEC. 22. Within ninety and after sixty days from the passage of this act, the selectmen of the town of Burlington shall cause the same to be published in one or more newspapers in said town, and shall warn the citizens who are legal voters in town meetings who shall reside within the limits of the City of Burlington as described in this act, at the time of its passage, to assemble at an appointed place and time, to vote for the acceptance or rejection of this act, said warning to give not less than fifteen nor more than twenty days notice after its date. And within ninety and after sixty days after the passage of this act, the said selectmen shall in like manner warn the legal voters residing in said town of South Burlington at the time of the passage of this act, to meet at the usual place of holding town meetings in the present town of Burlington, to vote for the acceptance or rejection of this act. And if at each of the meetings aforesaid the majority of the legal voters present shall be in favor of its acceptance, this act shall take effect from and after the first day of March A.D. 1853, but if the majority of the legal voters in the City of Burlington as described in this act, at a meeting so called as aforesaid, shall refuse by a majority of their votes, to accept this act; or if at the meeting of the legal voters residing in the limits of the town of South Burlington as described in this act, they shall by a majority of their votes refuse to accept of this act, then and in that case, or in case a majority of the legal voters at either of the said meetings shall by their votes refuse to accept this act, the same shall be null and void. And if the legal voters of said described city shall, within sixty days from the passage of this act, at a regular meeting which shall be called by the selectmen aforesaid for that purpose, by a majority of the voters present declare their preference for a village charter instead of a city charter, then this act shall be null and void.

SEC. 23. Fair lists of the legal voters aforesaid shall be made out and signed by the selectmen, and the said list shall be posted conspicuously in a public place, for at least six days before the meeting aforesaid; and shall be their duty to add to such lists the names of any legal voters inadvertently omitted by them, if such addition is claimed by the person or persons whose names are omitted, before the polls are opened, but not afterwards. No person shall be allowed to vote at such election whose name is not on the list. Similar lists shall be made out by the board of aldermen for the voters in each ward, for all subsequent elections and ward meetings, and posted in the several wards and corrected under their authority, in like manner, by which the voting in the respective wards shall be regulated. Said lists shall be preserved in care of the city council. Returns of the aforesaid first election in the several wards shall be made by the several clerks and inspectors of elections to the selectmen without delay.

SEC. 24. The persons elected to be mayor, aldermen and common council men, shall be notified by the selectmen to assemble at a set time and place. The oath of office shall be administered to them by any person authorized to administer an oath in this State. The oath of office having been administered to not less than a majority of each board aforesaid, either collectively or singly, the boards shall forthwith separate and immediately organize themselves according to this act; shall send notices to each other that they are respectively ready to proceed to business, and the city shall then be organized. The oath of office shall be administered to the recorder in the presence of the clerk of the board of aldermen, and all oaths of office shall be duly recorded in the proper record. If no election of mayor is made at the election aforesaid, or at the annual election, a new election shall be ordered for that office by the board of aldermen, to take place within ten days after notice, and so on till one be chosen. After the organization of the city, all returns of elections shall be made to the mayor or presiding officer of the board of aldermen, and the officers newly chosen from year to year shall be notified by him and sworn into office as before provided.

SEC. 25. From and after the organization of the City of Burlington, according to this act, the selectmen of the town of Burlington shall cease to exercise any authority within the limits of said city, except so far as may be necessary to carry out such administration of their duties as may have been legally entered upon and necessarily extending through the year of their office. All actions for or against the town of Burlington, commenced previous to the organization of the city, shall be unaffected by said organization. All pecuniary damages accruing against the town of Burlington, and all sums of money coming to it, as the result of any such actions, shall be fairly and equitably divided between the city of Burlington and the town of South Burlington, and all funds and properties of the present town of Burlington, which, from their nature, are divisible, shall be equitably divided between the city and town aforesaid, by the board of alderman on the one part, and the selectmen of the town on the other part. The United State deposit money shall be divided between the city of Burlington and the town of South Burlington, in proportion to their respective populations, to be ascertained as near as may be from the last United States' census, and the real and personal estate shall be divided in proportion to their respective grand lists in 1852: *Provided*, that all lands originally granted for the support of schools in the town shall be divided equally. All paupers, for whose support the present town of Burlington is or may be liable, shall be equitably apportioned between said city and the town of South Burlington, in the ratio of their said grand lists, and thereafter the said city and town shall severally be liable to support the paupers so apportioned to them respectively. All of the aforesaid paupers not included in such apportionment, or such of them as may be duly removed from other towns to said city or town, shall be supported at the joint expense of said city and town, in the ratio of their respective grand lists, and if either the city or said town shall refuse to pay its just ratio of such expense to the other which shall have paid more than its ratio, the party injured may have and maintain an action on the case, to recover the amount so due, before any court having jurisdiction thereof. And said division and apportionment shall be made as soon as it can be done conveniently, and if either party shall manifest unreasonable delay, or the two parties shall not agree, application may be made by either party to the judges of the Supreme Court, who shall appoint a commissioner or commissioners to make such apportionment and division, and their decision, accepted by the Supreme Court, shall be final. All the books of records, papers and documents, belonging to the town of Burlington, at the time the city shall be organized, shall be deposited and kept in the city clerk's office, copies of which, duly certified by the clerk of the city, shall be legal evidence for all purposes.

SEC. 26. The city council may authorize the sale or lease of any real estate belonging to the city, and all sales, grants or leases of any real estate belonging to the city, shall be signed by the mayor and sealed with the city seal, and any conveyance so executed, witnessed and acknowledged according to law, and recorded in the records of the town or city where the lands so sold, granted or leased, lie, if in this State, shall be good and effectual in law to convey the estate intended to be conveyed.

SEC. 27. Inhabitants of the city may testify as witnesses, and serve as jurors, in all suites where the city is a party.

SEC. 28. This act shall be a public act, and shall be published with public acts and laws of this State, and also this act may be altered, amended or repealed by the General Assembly, whenever the public good shall require such alteration, amendment, or repeal.

Approved, November 23, 1852.