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APPENDIX 1

THE VERMONT OPEN MEETING LAW

1 V.S.A. § 310. Definitions

As used in this subchapter:

(1) “Deliberations” means weighing, examining and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

(2) “Meeting” means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

(3) “Public body” means any board, council or commission of the state or one or more of its political subdivisions, any board, council or commission of any agency, authority or instrumentality of the state or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils or commissions, except that “public body” does not include councils or similar groups established by the governor for the sole purpose of advising the governor with respect to policy.

(4) “Publicly announced” means that notice is given to an editor, publisher or news director of a newspaper or radio station serving the area of the state in which the public body has jurisdiction, and to any editor, publisher or news director who has requested under section 312(c)(5) of this title to be notified of special meetings.

(5) “Quasi-judicial proceeding” means a proceeding which is:

(A) a contested case under the Vermont Administrative Procedure Act; or

(B) a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority.

1 V.S.A. § 311. Declaration of public policy; short title

(a) In enacting this subchapter, the Legislature finds and declares that public commissions, boards and councils and other public agencies in this state exist to aid in the conduct of the people’s business and are accountable to them pursuant to Chapter I, Article VI of the Vermont constitution.

(b) This subchapter may be known and cited as the Vermont open meeting law.

1 V.S.A. § 312. Right to attend meetings of public agencies

(a) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under section 313(a)(2) of this title. A meeting may be conducted by audio conference or other electronic means, as long as the provisions of this subchapter are met. A public body shall record by audio tape, all hearings held to provide a forum for public comment on a

proposed rule, pursuant to section 840 of Title 3. The public shall have access to copies of such tapes as described in section 316 of this title.

(b) (1) Minutes shall be taken of all meetings of public bodies. The minutes shall cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting. Minutes shall include at least the following minimal information:

(A) All members of the public body present;

(B) All other active participants in the meeting;

(C) All motions, proposals and resolutions made, offered and considered, and what disposition is made of same; and

(D) The results of any votes, with a record of the individual vote of each member if a roll call is taken.

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available for inspection by any person and for purchase of copies at cost upon request after five days from the date of any meeting.

(c) (1) The time and place of all regular meetings subject to this section shall be clearly designated by statute, charter, regulation, ordinance, bylaw, resolution or other determining authority of the public body and this information shall be available to any person upon request.

(2) The time, place and purpose of a special meeting subject to this section shall be publicly announced at least 24 hours before the meeting. Municipal public bodies shall post notices of special meetings in or near the municipal clerk's office and in at least two other public places in the municipality, at least 24 hours before the meeting. In addition, notice shall be given, either orally or in writing, to each member of the public body at least 24 hours before the meeting, except that a member may waive notice of a special meeting.

(3) Emergency meetings may be held without public announcement, without posting of notices and without 24-hour notice to members, provided some public notice thereof is given as soon as possible before any such meeting. Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.

(4) Any adjourned meeting shall be considered a new meeting, unless the time and place for the adjourned meeting is announced before the meeting adjourns.

(5) An editor, publisher or news director of any newspaper, radio station or television station serving the area of the state in which the public body has jurisdiction may request in writing that a public body notify the editor, publisher or news director of special meetings of the public body. The request shall apply only to the calendar year in which it is made, unless made in December, in which case it shall apply also to the following year.

(d) The agenda for a regular or special meeting shall be made available to the news media or concerned persons prior to the meeting upon specific request.

(e) Nothing in this section or in section 313 of this title shall be construed as extending to the judicial branch of the government of Vermont or of any part of the same or to the public service board; nor shall it extend to the deliberations of any public body in connection with a quasi-judicial proceeding; nor shall anything in this section be construed to require the making public

of any proceedings, records, or acts which are specifically made confidential by the laws of the United States of America or of this state.

(f) A written decision issued by a public body in connection with a quasi-judicial proceeding need not be adopted at an open meeting if the decision will be a public record.

(g) The provisions of this subchapter shall not apply to site inspections for the purpose of assessing damage or making tax assessments or abatements, clerical work, or work assignments of staff or other personnel. Routine day-to-day administrative matters that do not require action by the public body, may be conducted outside a duly warned meeting, provided that no money is appropriated, expended, or encumbered.

(h) At an open meeting the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting as long as order is maintained. Public comment shall be subject to reasonable rules established by the chairperson. This subsection shall not apply to quasi-judicial proceedings.

(i) Nothing in this section shall be construed to prohibit the parole board from meeting at correctional facilities with attendance at the meeting subject to rules regarding access and security established by the superintendent of the facility.

1 V.S.A. § 313. Executive sessions

(a) No public body described in section 312 of this title may hold an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of state government or of a majority of its members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. Such vote shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, shall not be made public subject to subsection 312(b) of this title. A public body may not hold an executive session except to consider one or more of the following:

(1) Contracts, labor relations agreements with employees, arbitration, mediation, grievances, civil actions, or prosecutions by the state, where premature general public knowledge would clearly place the state, municipality, other public body, or person involved at a substantial disadvantage;

(2) The negotiating or securing of real estate purchase options;

(3) The appointment or employment or evaluation of a public officer or employee;

(4) A disciplinary or dismissal action against a public officer or employee; but nothing in this subsection shall be construed to impair the right of such officer or employee to a public hearing if formal charges are brought;

(5) A clear and imminent peril to the public safety;

(6) Discussion or consideration of records or documents excepted from the access to public records provisions of section 317(b) of this title. Discussion or consideration of the excepted

record or document shall not itself permit an extension of the executive session to the general subject to which the record or document pertains;

(7) The academic records or suspension or discipline of students;

(8) Testimony from a person in a parole proceeding conducted by the parole board if public disclosure of the identity of the person could result in physical or other harm to the person;

(9) Information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program, considered pursuant to 33 V.S.A. §§ 1998(f)(2) and 2002(c).

(b) Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed.

(c) The senate and house of representatives, in exercising the power to make their own rules conferred by Chapter II of the Vermont Constitution, shall be governed by the provisions of this section in regulating the admission of the public as provided in Chapter II, section 8 of the Constitution.

1 V.S.A. § 314. Penalty and enforcement

(a) A person who is a member of a public body and who knowingly and intentionally violates the provisions of this subchapter or who knowingly and intentionally participates in the wrongful exclusion of any person or persons from any meeting for which provision is herein made, shall be guilty of a misdemeanor and shall be fined not more than \$500.00.

(b) The attorney general or any person aggrieved by a violation of the provisions of this subchapter may apply to the superior court in the county in which the violation has taken place for appropriate injunctive relief or for a declaratory judgment. Except as to cases the court considers of greater importance, proceedings before the superior court, as authorized by this section and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

APPENDIX 2

A BRIEF OVERVIEW OF SELECTED VERMONT TOWN OFFICES

Vermont Town Government. Vermont's 237 organized towns and 9 cities, as well as its incorporated villages, are "creatures of the State" under the terms of the Vermont Constitution. Because Vermont is not a "home rule" state, a municipality can do only those things that the Legislature allows. The Legislature has enacted laws enabling or mandating municipalities to undertake certain responsibilities through statutes – mostly in Titles 24, 32 and 19, but also scattered throughout all Titles of the Vermont statutes.

Generally, towns have the power and responsibility to build and maintain highways and bridges, tax property, control animals, license junkyards, provide for solid waste disposal, keep land and vital records, and regulate some health and sanitation areas.

Additionally, if at town meeting the voters so decide, a town may provide services such as police protection, fire protection, ambulance service, water, sewer, electricity, cemeteries, planning and zoning, building and housing codes, recreation, parks, forests and libraries.

Cities, as well as 22 towns and some other municipalities, all have charters that specifically grant them powers in addition to those in general statute. Villages are usually built-up areas wholly within towns with powers similar to towns. Villages often provide some "urban" services within their small areas that the town is not willing to provide (e.g., water, sewer, police or street lighting).

In addition to towns, cities and villages, there are several other municipal corporations, including solid waste, school and fire districts. Each is a government separate from the town. A fire district may be created to provide services, similar to those of a village, to a limited area within a town.

In most instances, the Legislature has indicated which town officer or body has responsibility to provide particular municipal services. Vermont courts have determined that when authority is provided by the Legislature to a town office, other town offices — even town meeting — may not direct the actions of that town office. The following sections *briefly* highlight many of these offices and their duties. The reader is strongly urged to read the statutes and Vermont League of Cities and Towns' (VLCT's) in-depth handbooks prior to undertaking the responsibilities of a position described herein.

Town Meeting. Town meeting is the one occasion during the year when voters come together to chart their town's future for the coming year. Most, but not all, annual town meetings are held the first Tuesday in March. At town meeting voters *must*:

- Elect municipal officers. 17 V.S.A. § 2646.
- Decide whether additional offices will be filled by election. 17 V.S.A. §§ 2646, 2649, 2650, 2651.
- Approve municipal budgets. 17 V.S.A. § 2664.
- Approve long-term capital borrowing or bonding by the town. 24 V.S.A. §§ 1751-1788.

At town meeting voters *may*:

- Fill vacancies in elective offices. 24 V.S.A. § 962.

- Approve zoning bylaws. 24 V.S.A. § 4385.
- Override ordinances approved by the selectboard. 24 V.S.A. § 1973.
- Approve charter changes, subject to legislative approval. 17 V.S.A. § 2645.

Voters at town meeting have several responsibilities in addition to those listed above. Town meeting is also a good time to catch up on a town's priorities, meet neighbors, hear about roads and legislation, etc.

At town meeting voters *may not*:

- Take action on an improperly warned article or any unwarned matter.
- Do things that are the responsibility of specific town officers (voters may advise town officers, but the officers do not have to take the advice).
- Instruct town officers how to do their jobs.
- Remove officers.
- Conduct business which is not proper and appropriate, or which is useless, frivolous or unlawful.

See VLCT's *Vermont Town Meeting Handbook* for further details.

Moderator. The moderator is the presiding officer of municipal meetings and must decide questions of votes taken, except if Australian ballot is used. The moderator must preserve order in the conduct of business and meetings. *Robert's Rules of Order* or some other rules of order govern all municipal meetings, except in elections using the Australian ballot system. 17 V.S.A. §§ 2657-2659. See VLCT's *Handbook for Vermont Moderators*.

Selectpersons. Either three or five selectpersons serve overlapping terms of between one and three years. One of three is elected to a three-year term each year. 17 V.S.A. § 2646(4). A town may vote to add two more selectpersons (for a total of five), each serving one- or two-year terms. 17 V.S.A. § 2650.

Selectpersons are responsible for general supervision of the affairs of town and must cause to be performed all duties required of the town not committed by law to the care of any particular officer. 24 V.S.A. § 872.

The selectboard may enact ordinances and rules, 24 V.S.A. § 1972, in many areas including traffic regulation, regulating nuisances, managing solid waste, dogs and recreation, and establishing bike paths. 24 V.S.A. § 2291. Many of these are listed in 24 V.S.A. § 2291, but others are scattered throughout the statutes.

The selectboard warns all town meetings and specifies business to be conducted at the meeting, including proposing an annual budget. 17 V.S.A. §§ 2641, 2642, 2663, 2664. If the town does not set the tax rate, the selectboard must set a tax rate that will raise the specific amount voted at town meeting. 17 V.S.A. § 2664.

The selectboard is responsible for hiring, directing, and firing almost all town employees, 24 V.S.A. § 872, *unless the town has a town manager form of government*; for setting salaries if voters do not do so at town meeting, 24 V.S.A. §§ 932-933, and for establishing and enforcing personnel policies, 24 V.S.A. §§ 1121-1122.

The selectboard must authorize all town expenditures by signing orders for the treasurer to draw town funds. 24 V.S.A. §§ 1621-1623.

The selectboard supervises the expenditure of the highway fund and has charge of keeping town highways in repair. 19 V.S.A. §§ 301-306. It also is responsible for laying out, classifying and discontinuing town roads. 19 V.S.A. Chapters 7 and 9.

The selectboard is responsible for animal control. 20 V.S.A. Chapters 191, 193, 194.

The selectboard may borrow money for periods of less than a year in anticipation of taxes. 24 V.S.A. § 1786.

The selectboard must fill all town vacancies until an election is held. 24 V.S.A. § 963.

The selectboard may license many operations within the town (e.g., liquor sales, restaurants, junkyards and entertainment).

The selectboard appoints several minor town offices (e.g., fence viewers, pound keepers, inspector of lumber and tree warden). 24 V.S.A. § 871.

The selectboard appoints and removes planning commissioners unless the town has voted to elect them. 24 V.S.A. § 4323. In rural towns, selectpersons serve as ex officio planning commission members. 24 V.S.A. § 4322. A rural town is a town with a population of less than 2,500 or a town with a population of at least 2,500 but less than 5,000 which has voted by Australian ballot to be considered a rural town. 24 V.S.A. § 4303(25). The selectboard adopts the town plan unless the town votes to adopt it by Australian ballot. 24 V.S.A. § 4385. It also holds public hearings on proposed zoning bylaws, 24 V.S.A. § 4442, and may, in some circumstances, adopt zoning bylaws. 24 V.S.A. § 4442.

The selectboard appoints police officers and *municipal* fire department officers. 24 V.S.A. §§ 1931, 1953.

The selectboard appoints and may remove a town manager when a town has voted to adopt such form of government. 24 V.S.A. §§ 1232-1233.

The selectboard purchases all insurance for the town. 24 V.S.A. § 1092.

The selectboard requires certain town officers to obtain a bond and sets the amount necessary. 24 V.S.A. § 832.

The selectboard regulates and issues certificates for junkyards. 24 V.S.A. §§ 2241-2242.

The selectboard controls cemeteries if there is not a cemetery commission. 18 V.S.A. §§ 5367, 5381.

Selectboard members serve as members of the Board of Civil Authority. 24 V.S.A. § 801.

Town Clerk. The town clerk is elected for either a one-year or, if the town so votes, a three-year term. 17 V.S.A. § 2646(2).

The clerk also serves as school district clerk unless the district has voted otherwise. 16 V.S.A. § 425.

The town clerk:

- Administers oaths of office and the voter's oath, 24 V.S.A. §§ 1160, 17 V.S.A. § 2124, and is automatically an ex officio notary public. 24 V.S.A. § 441.
- Records all proceedings of town meetings. 24 V.S.A. § 1152.
- Issues various licenses including marriage and dog licenses, and fish and game licenses, among others, and may register vehicles. 18 V.S.A. § 5131, 20 V.S.A. § 3581(a), 10 V.S.A. § 4254, 23 V.S.A. § 6.
- Records all land records, including deeds; liens; restrictions on deeds; hazardous waste site information and storage and disposal certifications; underground storage tank information; and local permits attached to real property. 24 V.S.A. §§ 1153–1164.
- Records all vital records (deaths, births and marriages). 18 V.S.A. §§ 5007-5013.
- Serves as presiding officer of all elections *except* non-Australian ballot town meetings unless the municipality by vote or charter provides otherwise, 17 V.S.A. §§ 2452, 2680, and has many other election and town meeting responsibilities. See Title 17 generally.
- Works with the listers on setting the grand list and on tax appeals See Title 32 generally.

Clerks have many additional responsibilities scattered throughout the statutes. See VLCT's *Handbook for Vermont Municipal Clerks* for further detail.

Town Treasurer. The town treasurer is elected for either a one-year or, if the town so votes, a three-year term. 17 V.S.A. § 2646(3). Approximately 180 treasurers are also the clerks for their municipalities.

The treasurer also serves as school district treasurer unless the district has voted otherwise. 16 V.S.A. § 426.

The town may vote to have the treasurer collect current taxes. 32 V.S.A. § 4791. Whether or not the treasurer actually collects the taxes, when the bills are prepared, the treasurer credits the general, highway and school funds, 24 V.S.A. § 1524, and debits the general funds as taxes are received. 24 V.S.A. § 1526. Current taxes include all municipal taxes and, under Act 60, non-residential school property taxes.

The treasurer keeps accounts of the money, bonds, notes and evidences of debt paid or delivered to him or her and of all monies paid out. 24 V.S.A. § 1571.

The treasurer also must pay all orders (warrants) drawn by the selectboard and shall keep records thereof. 24 V.S.A. § 1576.

The treasurer must work closely with both the selectboard (which has the authority to draw orders or warrants, borrow in anticipation of taxes, develop the budget and make investment decisions) and with the auditors (who will annually review the finances of the town and report to the voters on the financial status of the town). The statutes in this area are vague and archaic, and have caused more than one confrontation among the selectboard, treasurer and auditors about their proper roles.

Tax Collector. Tax collection statutes are complex. People engaged in tax collection should carefully read the statutes before commencing their responsibilities. At town meeting, a town must choose one of the following five procedures to collect taxes:

- The town may vote to elect a tax collector who would collect both current and delinquent taxes. 17 V.S.A. § 2646(8 and 9); 24 V.S.A. § 1528.
- By not indicating how the town wishes taxes collected, the first constable automatically becomes the collector of taxes. 24 V.S.A. § 1529.
- The town may vote to have the treasurer collect taxes. 32 V.S.A. § 4791. The town may also vote to have delinquent taxes collected by the collector of taxes, by the collector of delinquent taxes, or by the constable (if neither collector is elected). 24 V.S.A. § 1529.
- If the town has adopted the town manager form of government, it can also vote to have the manager collect taxes (but only delinquent taxes if the town has voted to have the treasurer receive current taxes). 24 V.S.A. § 1236(10).
- If the town is without a tax collector, the selectboard can hire one (even a non-resident) to collect what the treasurer does not. 32 V.S.A. § 4799.

The town may set the date that taxes are due (32 V.S.A. § 4773), may vote to have them paid in installments (32 V.S.A. §§ 4871-4872), and may vote whether to allow discounts for early payment (32 V.S.A. §§ 4773, 4872). If the town does not establish a due date, the date is established according to the following:

- If the *treasurer* collects current taxes, the treasurer must post and publish notices and set a date not less than 30 days from the notice being mailed as the date taxes are due, and mail tax bills to each taxpayer. 32 V.S.A. § 4792. Taxes go delinquent the day after the date established for payment, and the warrant for collection of delinquent taxes is turned over to the delinquent tax collector. 32 V.S.A. § 4793.
- If a tax collector collects current taxes, he or she must give notice of at least 30 days as to when and where taxes can be paid and must mail tax bills to each taxpayer. 32 V.S.A. § 4772. Taxes are delinquent the day after the date established for payment of taxes or 30 days from the date of mailing the notice if no date was established.

Once taxes are delinquent, the collector may charge 8% commission, or such lesser amount as set by the voters. 32 V.S.A. § 1674. The town may also vote to charge interest on delinquent taxes at a rate of up to 1% per month for the first three months and 1½% thereafter. 32 V.S.A. § 5136.

Collectors of delinquent taxes have three options when delinquent taxpayers own property:

1. Distrain the property of the owner and sell it at public auction (32 V.S.A. §§ 5191-5193) after properly attaching a tax lien in the case of personal property. 32 V.S.A. §§ 5061-5079.
2. Bring suit in court against the property holder to recover the tax and costs (32 V.S.A. §§ 5221-5227); or
3. Sell the real estate against which the tax was applied (32 V.S.A. §§ 5251-5263).

These are complicated processes that must be followed correctly and legally. *A lawyer should be consulted when initiating any of the above proceedings.*

Rules of thumb to follow are:

- There is an automatic tax lien on real estate as soon as the grand list is lodged in the town clerk's office;
- Taxes “run” with the property. If the property is sold with taxes outstanding, the property is still subject to the lien and tax sale – meaning it is up to the new owner to assure the taxes are paid or risk tax sale or foreclosure;
- Acceptance of full or partial payment of overdue taxes does not preclude the town from collecting the remaining balance of taxes, and any interest or penalties thereon;
- Once a tax bill or warrant is issued, it must be either paid in full or fully abated or some combination thereof. The criteria for abatement are very limited. See 24 V.S.A. § 1535. A town cannot “write-off” delinquent taxes – they must either be paid or abated.

For further information, consult VLCT's *Handbook for Delinquent Tax Collectors*.

Listers. Listers are responsible for determining the value of the real and personal property in town. This is the value the selectboard or the town will use to set a tax rate necessary to raise the money to operate the town in the next year. It is also the basis for the determination of the property wealth of the municipality for purposes of setting state education property taxes. Three listers are elected, one a year, to overlapping three-year terms. 17 V.S.A. §§ 2646(5), 2649. A town may vote to elect up to two additional listers. 17 V.S.A. § 2649.

The statutes give very little guidance to listers other than stating that they should, on April 1 of every year, determine the “fair market value” of the personal and real property and set it in the grand list book at 1% of that value. 32 V.S.A. § 3482. Agricultural and forest land enrolled in the Use Value Program is assessed differently.

One section of the statutes and several court cases give some guidance in determining the appraisal value of a property. It is the price the property would bring in the market when offered for sale and purchased by another, taking into consideration (1) the availability of the property; (2) its potential and prospective use; (3) any functional deficiencies; (4) its age and condition; and (5) the effect of any state or local law or regulation affecting the use of the land (such as zoning). 32 V.S.A. § 3481. This is called Fair Market Value.

Personal property valuation is based on inventory forms sent to taxpayers. Business personal property is no longer taxable for school purposes, and municipalities may vote to repeal that tax on the municipal side in order to maintain consistency with the school tax side. 32 V.S.A. §§ 4001-4009.

Whenever listers alter a valuation, they must notify the affected taxpayer of the changes and of his or her right to a hearing to appeal the listers' initial decision. 32 V.S.A. §§ 4111, 4221.

Listers may, with the approval of the selectboard, or by vote of the town, employ expert assistance (and many do when reappraising properties). 32 V.S.A. § 4041.

For further information, see the *Lister's Handbook*, published by the state Division of Property Valuation and Review.

Auditors. Town auditors have two primary duties. The first is to “examine and adjust the accounts of all town and town school district officers and all other persons authorized by law to draw orders on the town treasurer.” The second is to “report their findings in writing and to cause the same to be mailed or otherwise distributed to the legal voters of the town” 24 V.S.A. §§ 1681, 1684. Details on the accounts to be audited, the auditors’ report, the timing of auditors’ meetings, and the notice required for meetings are included in the above-cited statutes. Three auditors are elected, one a year, to overlapping three-year terms. 17 V.S.A. §§ 2646(6), 2649.

The relationship between the town treasurer and the auditors is at times of concern to those holding either office. The treasurer is responsible for the accounting system, a part of which is the preparation of financial statements. What happens when the auditors disagree with these statements? Auditors should discuss their concerns with the treasurer and attempt to work out a presentation that is acceptable to both. If this cannot be done, the treasurer’s statements are those included in the town’s annual report. The auditors would then want to note in their own written report the areas of disagreement with the treasurer’s report.

After completing their review of the town’s books and financial statements, the auditors prepare an audit report. According to the statutes 24 V.S.A. §§ 1683-1684, the auditors’ report must contain the following:

- a detailed statement of the financial condition of the town and school district for their respective fiscal years;
- a classified summary of receipts and expenditures;
- a list of all outstanding payables more than 30 days past due;
- a report of deficit, if any;
- a statement on the condition of all trust funds, including a list of assets of such funds and an account of receipts and disbursements for the previous year;
- a statement showing what bonds – including rate and amount thereof – of the town or town school district are outstanding; and
- a statement showing what interest bearing notes or orders of the town or school district are outstanding with the serial number, date, amount, payee, rate of interest of each, and the total amount thereof.

For further details, see VLCT’s *Handbook for Locally Elected Auditors*.

Town Manager. Forty-eight towns, cities and villages have adopted the municipal manager system as set forth in 24 V.S.A. §§ 1231-1243 or comparable municipal charter provision. Each one has slightly different duties and responsibilities tailored to his or her community, and each does the job differently.

In order to adopt the town manager form of government, a town must vote at town meeting on a specific article to do such. 24 V.S.A. §§ 1240-1243.

The selectboard appoints, directs, supervises, sets the salary for and, for cause, removes the town manager. 24 V.S.A. §§ 1232, 1233, 1239.

A manager's duties include:

- Having general supervision of the town;
- Being the administrative head of all departments;
- Performing all duties not committed to another office;
- Performing all selectpersons' duties *except* preparing tax bills, signing orders, calling town meetings, laying out highway or parks, making assessments, awarding damages, being a member of the Board of Civil Authority, and filling vacancies (but the manager shall assist the selectboard in these duties);
- Being the general purchasing agent;
- Having charge of all town buildings including school buildings upon requisition of the board of school directors;
- Acting as the road commissioner (automatic – no other commissioner can be appointed or elected);
- Doing town accounting, including school district accounting when the board of school directors so requests;
- Having charge of the police and fire departments (including appointments, removals and salaries);
- Acting as collector of taxes if the town so votes. 24 V.S.A. § 1236;
- Having charge of the system of licenses (other than those issued by the town clerk);
- Having charge of the system of sewers;
- Having charge of street lighting; and
- Having charge of the maintenance of parks.

Board of School Directors. Schools and school boards are governmental entities separate from cities, towns and villages. Town school districts have school boards of three or five members, three of whom are elected for three years and two of whom are elected for either one or two years. Union school districts are not discussed here. As part of its duties, the local board of school directors:

- Select – as members of a supervisory union board – a superintendent for a period of one to five years and fix his or her salary. 16 V.S.A. § 241(a).
- Enter into contracts with supervisory unions for joint services. 16 V.S.A. § 267.
- Warn the town school district meeting. 16 V.S.A. § 422(c).
- Determine educational policies of the school district, care for and manage school property, keep schoolhouses repaired and insured, receive gifts of money or other items of value for school purposes, examine claims against the town district for school expenses, draw orders for loans to the town's general fund, make regulations not inconsistent with law to carry their powers into effect. 16 V.S.A. § 563.
- Determine the number and locations of schools subject to approval by voters under certain circumstances. 16 V.S.A. § 563.
- Report to the state and to the town school district regarding expenditures, and recommend a budget for adoption by the district. 16 V.S.A. §§ 428, 563.

- Appoint, annually, one or more truant officers. 16 V.S.A. § 1125.
- Maintain a high school or furnish secondary education through tuition, subject to appeal to the State Board of Education. 16 V.S.A. § 821.
- Provide a competent number of elementary schools or arrange for elementary tuition. 16 V.S.A. § 821.
- Fix the number of hours that shall constitute a school day subject to revision by the State Board of Education; petition the State Board of Education for waiver of the number of school days required. 16 V.S.A. § 1071.
- Determine the legal residence of pupils, subject to appeal to the Commissioner of Education. 16 V.S.A. §§ 1075.
- Receive non-resident pupils and payment therefore. 16 V.S.A. § 1093.
- Notify school directors of towns from which non-resident pupils come of any proposed tuition increase on or before February 1 in any year. 16 V.S.A. § 826.
- Give consent to the superintendent to excuse a pupil from school who has reached the age of 15 years, under certain circumstances. 16 V.S.A. § 1123.
- Excuse a child over 16 years of age from attending public school, under certain circumstances. 16 V.S.A. § 1122.
- Establish policy related to student discipline. 16 V.S.A. § 1161a.
- Give consent to the dismissal from school of pupils, under certain circumstances. 16 V.S.A. § 1162.
- Control and regulate the transportation and board of pupils in schools under its charge. 16 V.S.A. § 1221.
- Furnish transportation as within its discretion appears necessary. 16 V.S.A. § 1222.
- Appoint one or more medical inspectors for the schools in the town district. 16 V.S.A. § 1382.
- Provide certain health and nutrition services for children of indigent parents. 16 V.S.A. § 1386.
- Enter into contracts with teachers. 16 V.S.A. § 1751.
- Hear appeals of teachers suspended by a superintendent, and if no appeal is taken, affirm or reverse the suspension of a teacher by a superintendent. 16 V.S.A. § 1752.
- Control and manage revenue from grammar school lands in certain circumstances. 16 V.S.A. § 3226.
- Provide, furnish, maintain and control schoolhouses or sell schools and sites when authorized by voters. 16 V.S.A. § 563.
- Erect on each schoolhouse or adjacent thereto a flagpole and fly a United States flag thereon while school is in session. 16 V.S.A. § 3742.
- Select and provide all textbooks, appliances and supplies required for use in the schools, subject to the approval of the superintendent. 16 V.S.A. § 563(14).

The board of school directors *may*:

- Vote to establish central supervisory union financial management as well as transportation, construction, teacher negotiations or other services. 16 V.S.A. § 261(a).

- Organize and supervise safety patrols. 16 V.S.A. § 1482.
- Initiate eminent domain proceedings 16 V.S.A. § 560.

The board of school directors may provide early education programs as well as instruction to pupils who have completed secondary education. It may also discontinue or relocate use of facilities. See the Vermont School Boards Association's *Handbook for New and Not So New School Board Members* for more information.

Constable. Unless it has voted to appoint a constable, the town must elect a first constable and may vote to elect a second constable. 17 V.S.A. §§ 2646(7), 2651a. The constable is a law enforcement officer, as defined by § 54(c)(6) of the Vermont Rules of Criminal Procedure, and as such has the authority to arrest, and has powers of search and seizure within the town. 24 V.S.A. § 1931. A constable may also serve criminal or civil process. 12 V.S.A. § 691. He or she may:

- Destroy unlicensed dogs, following the requirements of 20 V.S.A. §§ 3621-3623.
- Kill injured deer. 10 V.S.A. § 4749.
- Assist the health officer in the discharge of his or her duties. 18 V.S.A. § 617.
- Serve as a district court officer. 24 V.S.A. § 296.
- Remove disorderly persons from town meeting. 17 V.S.A. § 2659.

When no tax collector is elected, the first constable becomes the collector of state, county, town and town school district taxes. 24 V.S.A. § 1529.

Vermont law requires a basic training course of a minimum of forty-five hours for a part-time law enforcement officer. The definition of “part-time law enforcement officer” specifically includes “a constable who exercises law enforcement powers.” 20 V.S.A. § 2358. However, section (d) of that section states that the basic training is optional for any elected official. Notwithstanding these sections of Title 20 of the statutes, a town may vote (a) to prohibit constables from exercising any law enforcement authority or (b) to prohibit constables from exercising any law enforcement authority without having successfully completed a course of training under Chapter 151 of Title 20. 24 V.S.A. § 1936a. The jurisdiction of a constable is limited to the boundaries of his or her town or city.

Tree Warden. The selectboard shall appoint a tree warden from among the legally qualified voters of the town. 24 V.S.A. § 871. The office of tree warden has been viewed as an archaic office, but is developing new relevance in the late twentieth century. Shade and ornamental trees within the limits of public rights of way are under the control of the tree warden. The tree warden may plan and implement a town shade tree preservation program for the purpose of shading and beautifying public ways and places by planting new trees and shrubs; by maintaining the health, appearance and safety of existing trees through feeding, pruning and protecting them from noxious insect pests and diseases; and by removing diseased, dying or dead trees which create a hazard to public safety or threaten the effectiveness of disease or insect control programs. 24 V.S.A. § 2502. A municipality may appropriate a sum of money to be expended by the tree warden or, if one is not appointed, by the selectboard. 24 V.S.A. § 2503.

The tree warden may not remove trees when the owner or lessee of abutting real estate annually controls all insect pests or tree diseases on trees within the limits of a highway or place abutting such real estate. The tree warden shall enforce all laws relating to public shade trees and may prescribe rules and regulations for the planting, protection, care and removal of public shade trees pursuant to the ordinance adoption procedure in 24 V.S.A. Chapter 59. The tree warden may enter into agreements with the owners of land adjoining or facing public ways and places for the purpose of encouraging and carrying out a community-wide shade tree planting and preservation program. Only the tree warden, deputy tree warden or someone with his or her permission may cut a public shade tree. Healthy public shade trees in the residential part of a residential neighborhood shall not be felled without a public hearing by the tree warden. The tree warden may request from the Commissioner of Agriculture recommendations for control of suspected infestations, may implement recommended control measures, and may enter private land to implement these control measures. 24 V.S.A. §§ 2504-2511.

Planning Commission. A planning commission may have not less than three nor more than nine voting members. At least a majority of the members must be residents of the municipality. The selectpersons of a “rural town” or two elected or appointed officials of an “urban municipality” shall be non-voting ex officio members. An energy coordinator may also be a non-voting ex officio member. 24 V.S.A. § 4322. Planning commissioners are appointed by the selectboard unless the municipality votes to elect them to terms of between one and four years. 24 V.S.A. § 4323.

Following are the powers and duties of planning commissions as specified in 24 V.S.A. § 4325. Any planning commission created under 24 V.S.A. Chapter 117 may:

1. Prepare a municipal plan and amendments thereof for consideration by the legislative body and review amendments thereof initiated by others as set forth in 24 V.S.A. Chapter 117, Subchapter 5.
2. Prepare and present to the legislative body proposed bylaws and make recommendations to the legislative body on proposed amendments to such bylaws as set forth in 24 V.S.A. Chapter 117, Subchapter 6.
3. Administer bylaws adopted under 24 V.S.A. Chapter 117, Subchapter 6, unless a development review board has been created.
4. Undertake studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy, the development of renewable energy resources and wetland protection.
5. Prepare and present to the legislative body recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements.
6. Prepare and present a recommended capital budget and program for a period of five years for action by the legislative body.
7. Hold public meetings.
8. Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission.

9. Enter upon land to make examinations and surveys in the performance of its functions.
10. Participate in a regional planning program.
11. Retain staff and consultant assistance in carrying out its duties and powers.
12. Undertake comprehensive planning, including related preliminary planning and engineering studies.
13. Perform such other acts or functions necessary or appropriate to fulfill the intent and purposes of 24 V.S.A. Chapter 117.

Every municipality may appropriate to and expend funds for its planning commission. The planning commission must keep a record of its business and shall make an annual report to the municipality. A planning commission may accept and utilize any funds, or any personal or other assistance made available by the state or federal government or any of their agencies or from private sources. 24 V.S.A. § 4326.

When a charter of a municipality sets forth requirements for the appointment and authority of municipal planning and zoning officials that are inconsistent with law, the charter shall prevail. 24 V.S.A. § 4328.

Zoning Board of Adjustment/Development Review Board. A municipality that has a municipal plan and zoning bylaws may choose to have *either* a development review board or a zoning board of adjustment. If a development review board is chosen, it exercises all the functions exercised by the zoning board of adjustment and development review functions otherwise exercised by the planning commission (such as approval, modification or disapproval of plats and their development).

The zoning board of adjustment or development review board may consist of the members of the planning commission or include one or more members of the planning commission. The legislative body must decide how many members, between five and nine, will be on the development review board or zoning board of adjustment. If the members of the planning commission are not also the zoning board of adjustment or development review board, the selectboard must appoint members. 24 V.S.A. § 4460.

The development review board or zoning board of adjustment hears appeals from decisions of the zoning administrator and grant or deny variances. 24 V.S.A. §§ 4460(e).

The development review board, but not a zoning board of adjustment, may take steps to enable it to hear applications for local Act 250 review of municipal impacts. If a development review board decides to hear such applications, then all applications would go through that process unless Act 250 had no jurisdiction. Act 250 criteria the development review board may consider are *impacts on educational and municipal services, and conformance with the town plan*. 24 V.S.A. § 4420.

Administrative Officer (Zoning). An administrative officer, sometimes called a zoning administrator or officer, is appointed by the legislative body, after nomination by the planning commission, for a term of three years promptly after the adoption of bylaws or when a vacancy occurs. 24 V.S.A. § 4448. The administrative officer should provide an interested party with all forms required to obtain any municipal land use permit. The administrative officer should also

coordinate efforts to provide an interested party with all other relevant permit information, such as state land use permits, and with informational resources, such as the regional planning commission. 24 V.S.A. § 4448(c). The administrative officer must strictly interpret the zoning bylaws, and no land development may commence without a permit issued by the administrative officer, who shall also be required to post the permit during the appeal period and deliver a copy to the listers. 24 V.S.A. §§ 4448-4449(a)(1). The administrative officer is also responsible for instituting enforcement action in the name of the municipality for violations of the bylaws. 24 V.S.A. § 4454.

Conservation Commission. A conservation commission may be created upon a vote of the town or upon a vote of the selectboard if the town charter so permits. Conservation commissions have between three and nine members who are appointed by the selectboard for four-year terms. The conservation commission may make an inventory and conduct studies of the municipal natural resources including air, surface waters, and ground waters and pollution thereof; soils and their capabilities; mineral and other earth resources; streams, lakes, ponds, wetlands and floodplains; unique or fragile biologic sites; scenic and recreational resources; plant and animal life; prime agricultural and forest land; and other open lands. It may also make inventories of other lands in which the municipality has an interest. The conservation commission may administer municipal lands acquired to protect one of the above attributes. The conservation commission may also advise the selectboard and the planning commission. 24 V.S.A. Chapter 118.

Open Meeting and Access to Public Records Laws. Every town officer should know the provisions of the Open Meeting Law (1 V.S.A. §§ 311-314), and the Access to Public Records Law (1 V.S.A. § 315-320). The general rule to apply is that all the business you conduct and all the records you have are the public's business, and every effort should be made to make meetings and documents available to the public.

There are several common sense exceptions to those rules (e.g., criminal investigations and personnel matters) that are spelled out in the Open Meeting and Access to Public Records Laws. For an outline of the requirements of these two laws, please see the VLCT *Open Meeting Law* and *Access to Public Records Law* posters available at your municipal clerk's office or from VLCT.

APPENDIX 3 PRINCIPAL SELECTBOARD STATUTES

24 V.S.A. § 2291. Enumeration of powers

For the purpose of promoting the public health, safety, welfare and convenience, a town, city or incorporated village shall have the following powers:

- (1) To set off portions of public highways of the municipality for sidewalks and bicycle paths and to regulate their use.
- (2) To provide for the removal of snow and ice from sidewalks by the owner, occupant or person having charge of abutting property.
- (3) To provide for the location, protection, maintenance and removal of trees, plants and shrubs, and buildings or other structures on or above public highways, sidewalks, or other property of the municipality.
- (4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to sections 1141 through 1147 of Title 23; to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.
- (5) To establish rules for pedestrian traffic on public highways and to establish crosswalks.
- (6) To regulate the location, installation, maintenance, repair and removal of utility poles, wires and conduits, water pipes or mains, gas mains and sewers, upon, under or above public highways or public property of the municipality.
- (7) To regulate or prohibit the erection, size, structure, contents and location of signs, posters or displays on or above any public highway, sidewalk, lane or alleyway of the municipality and to regulate the use, size, structure, contents and location of signs on private buildings or structures.
- (8) To regulate or prohibit the use or discharge, but not possession of, firearms within the municipality or specified portions thereof.
- (9) To license or regulate itinerant vendors, peddlers, door-to-door salesmen, and those selling goods, wares, merchandise or services who engage in a transient or temporary business, or who sell from an automobile, truck, wagon or other conveyance, excepting persons selling fruits, vegetables or other farm produce.
- (10) To regulate the keeping of dogs, and to provide for their leashing, muzzling or restraint.
- (11) To regulate, license, tax or prohibit circuses, carnivals and menageries, and all plays, concerts, entertainments or exhibitions of any kind for which money is received.
- (12) To regulate or prohibit the storage or dumping of solid waste, as defined in 10 V.S.A. § 6602. These regulations may require the separation of specified components of the waste stream.
- (13) To compel the cleaning or repair of any premises which in the judgment of the legislative body is dangerous to the health or safety of the public.

(14) To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety or welfare may require.

(15) To provide for penalties for violation of any ordinance or rule adopted under the authority of this section.

(16) To name and rename streets and to number and renumber lots pursuant to section 4421 of this title.

(17) To regulate or prohibit possession of open or unsealed containers of alcoholic beverages in public places.

(18) To regulate or prohibit consumption of alcoholic beverages in public places.

(19) To regulate the construction, alteration, development, and decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements where the city, town or village has not adopted zoning or where those activities are not regulated pursuant to a duly adopted zoning bylaw. Regulations regarding the decommissioning or dismantling of telecommunications facilities and ancillary structures may include requirements that bond be posted, or other security acceptable to the legislative body, in order to finance facility decommissioning or dismantling activities. These regulations are not intended to prohibit seamless coverage of wireless telecommunications services.

(20) To establish a conflict of interest policy to apply to all elected and appointed officials of the town, city, or incorporated village.

(21) To regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, subject to the limitations of 13 V.S.A. § 351b and the requirement of 13 V.S.A. § 354(a), and consistent with the rules adopted by the secretary of agriculture, food and markets, pursuant to 13 V.S.A. § 352b(a), the welfare of animals in the municipality. Such ordinance may be enforced by humane officers as defined in 13 V.S.A. § 351, if authorized to do so by the municipality.

(22) To regulate the sale and conveyance of sewage capacity to users, including phasing provisions and other conditions based on the impact of residential, commercial, or industrial growth within a town, in accord with principles in a duly adopted town plan.

24 V.S.A. § 872. Selectmen; general powers and duties

The selectmen shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.

19 V.S.A. § 304. Duties of selectmen

(a) It shall be the duty and responsibility of the selectboard of the town to, or acting as a board, it shall have the authority to:

(1) see that town highways and bridges are properly laid out, constructed, maintained, altered, widened, vacated, discontinued and operated, when the safety of the public requires, in accordance with the provisions of this title;

(2) take any action consistent with the provisions of law, including determinations made pursuant to subdivision 302(a)(3)(B) or subsection 310(a) of this title, which are necessary for or incidental to the proper management and administration of town highways;

(3) purchase tools, equipment and materials necessary for the construction, maintenance or repair of highways and bridges, and to incur indebtedness from the municipal equipment loan fund as established in section 1601 of Title 29 for these purchases. It may contract with governmental or private agencies for the use of tools, equipment, road building material, and services;

(4) order hills graded, surfaces graveled, or treated with a dust layer, or surface treated with bituminous material, upon any town highway either laid out by them or already existing;

(5) grant permission to enclose pent roads and trails by the owner of the land during any part of the year, by erecting stiles, unlocked gates and bars in the places designated and to make regulations governing the use of pent roads and trails and to establish penalties not to exceed \$50.00, for noncompliance. Permission shall be in writing and recorded in the town clerk's office;

(6) make special regulations as to the operation, use and parking of motor vehicles on highways under their jurisdiction, as provided in Title 23;

(7) make special regulations as to the speed of motor vehicles using the highways under their jurisdiction, as provided in Title 23;

(8) lay out winter roads and lumber roads pursuant to chapter 9 of this title;

(9) change the course of a stream, pursuant to chapter 9 of this title;

(10) erect embankment on stream, pursuant to chapter 9 of this title;

(11) construct a watercourse, drain or ditch from a highway across lands of any person, pursuant to chapter 9 of this title;

(12) lay out, alter, classify, and discontinue town highways, pursuant to chapter 7 of this title;

(13) forward the town's annual plan for the construction and maintenance of town highways to the agency of transportation;

(14) keep accurate accounts, showing in detail all moneys received by them including from whom and when received and all moneys paid out by them, to whom and for what purpose, and settle the accounts with auditors not less than 25 days before the annual meeting;

(15) receive grant funds and gifts from public and private sources;

(16) unless the town electorate votes otherwise, under the provisions of 17 V.S.A. § 2646, appoint a road commissioner, or remove him or her from office, pursuant to 17 V.S.A. § 2651.

Road commissioners, elected or appointed, shall have only the powers and authority regarding highways granted to them by the selectmen;

(17) number houses and name highways if desired;

18) participate in cooperative purchasing arrangements with the state or other municipalities;

19) prepare a transportation plan and capital budget for transportation for voter approval;

20) retain staff and consultant assistance if needed in carrying out duties and powers;

21) issue permits for work in highway rights-of-way pursuant to 19 V.S.A. chapter 11;

22) regulate the location and relocation of utility wires and poles pursuant to 30 V.S.A. chapter 71; and

23) promulgate and adopt after public hearing(s) road specifications for highways to be built or rebuilt within the town in compliance with applicable statutes.

(b) Nothing in this chapter shall be construed to affect the rights and powers conferred on incorporated villages and cities by their charters to appoint street commissioners, collect and disburse highway taxes, and repair and maintain highways under their care.

APPENDIX 4 STATUTORY SOURCES OF LOCAL AUTHORITY

Advertisements. In addition to the state laws prohibiting most off-site outdoor advertising, 10 V.S.A. Chapter 21, towns may enact local ordinances which are more strict and not inconsistent with state law. 10 V.S.A. § 505. Towns may regulate or prohibit the erection, size, structure, content and location of signs, posters or displays on or above any public highway, sidewalk, lane or alleyway of the municipality and to regulate the use, size, structure, content and location of signs on private buildings or structures. 24 V.S.A. § 2291(7).

All-Terrain Vehicles. A selectboard may adopt ordinances pursuant to 24 V.S.A. Chapter 59 regulating the time, manner and location of ATV operation provided they not controvert Chapter 31 of Title 23. 23 V.S.A. § 3510. ATV operation is prohibited on sidewalks without permission of the selectboard. 23 V.S.A. § 3506(12). ATVs are also prohibited from operating along a town highway unless it is not being maintained during the snow season or unless the selectboard has opened the highway to ATV travel and has so posted. ATVs used for agricultural purposes may be used along local highways so long as they are at least three feet from the traveled portion.

Aqueducts. Towns may, through their selectboards, lay water pipes or aqueducts on private citizens' lands to provide water to a town hall or to provide water to a watering trough on a public highway. However, to do this, the town must be acting on behalf of public good and necessity. If the town and the property owner are unable to agree on compensation for land taken for use of an aqueduct, the town may take the land and have the determination of the necessity decided afterwards. 24 V.S.A. § 2801.

Bowling Alleys. The selectboard has the authority to grant licenses for bowling alleys. Town fees for bowling alleys should not exceed \$25 per year. Rules and regulations for bowling alleys are effective only when they are recorded in the office of the town clerk. Bowling alleys that are operated by charitable, educational or fraternal organizations are exempt from these regulations. 31 V.S.A. §§ 503-507.

Cable Television. The selectboard has little control over cable television in its community. The Public Service Board (PSB) and the Department of Public Service (DPS) have authority over who owns, operates and provides cable in Vermont. 30 V.S.A. Chapter 13. Municipalities cannot refuse to grant a license to cable television companies if they are granted a license by the PSB. 1970-72 Op. Atty. Gen. 393.

The selectboard has three possible roles to play with cable television. First, in areas unserved by a system, the selectboard may request the assistance of the DPS. The PSB must then analyze and define the service territory, taking particular account of the type of service requested and the service provided currently to other contiguous areas. They must also prepare requests for proposals and submit those to companies to bid on the service. Any proposals received would be sent to the towns, with PSB comments. 30 V.S.A. § 512.

Second, in unserved areas a town can run a municipally-owned cable television company. 30 V.S.A. § 513. The selectboard can do so without charter provision. A town would obtain authorization for establishing the system from a vote of 60% of the voters, while a city would need 60% of the city council or a petition with 10% of the voters, both of which are subject to a voter referendum within one year of the acquisition. Municipal cable companies have to obtain a certificate of public good from the Public Service Board.

Last, in towns served by cable companies, the selectboard becomes a party to the certificate of public good hearings, representing the interest of the municipality and its citizens before the PSB when a company is being permitted.

Cemeteries. The selectboard, acting as the cemetery commission, may enact an ordinance to regulate cemeteries and burial of the dead. 18 V.S.A. § 5378.

Coasting on Sleds. The selectboard has the authority to prohibit coasting on highways and shall do so “when it endangers the lives or property of travelers.” A notice of this prohibition shall be posted in two or more conspicuous places in the area. Villages and cities may have regulations that allow coasting, but they must be enacted as such. The fine for violating this regulation is \$2.00. 31 V.S.A. §§ 511-512.

Codes

1. Building Codes. Municipalities are authorized to adopt building codes and regulations for the purpose of protecting public health, safety and welfare. These codes establish standards for materials, design, passageways, stairways, exits, heating systems and fire protection. 24 V.S.A. § 3101. This may include rules relating to building materials, structural design, passageways, stairways and exits, heating systems, fire protection procedures and other aspects of buildings except for electrical installations, which are subject to state regulation per 26 V.S.A. Chapter 15.

It seems clear that building codes apply to new construction. However, the statute also refers to “maintenance, repair, and alteration” of buildings, indicating that the municipality has the authority to require changes in existing structures under certain circumstances. 24 V.S.A. § 3101.

Building codes are ordinances and must be properly adopted according to the procedural requirements of 24 V.S.A. Chapters 59 and 83. In addition, there are two other statutory considerations. First, a code must be consistent with the safety standards set by the Vermont Department of Labor in 21 V.S.A. Chapter 3. Those standards apply to any building where people are employed, whether privately or municipally owned. Second, the municipal code must be consistent with any building code requirements set by the Legislature. Vermont law currently incorporates the *BOCA National Building Code*, a comprehensive code issued by the non-profit Building Officials and Code Administration organization. In fact, the Legislature may actually change your code by adopting new standards, since the new standards will supersede anything in your code which conflicts with them. Also, be aware that certain types of buildings or businesses are already regulated by the Health Department. For example, hospitals, nursing homes, establishments which sell food, and programs for asbestos removal or lead paint control must meet Health Department standards.

Anyone who is contemplating writing a municipal building code should also be familiar with the Americans with Disabilities Act’s (ADA) regulations covering the accessibility of public buildings as all municipal building codes must comply with the ADA. For more information on the ADA, see Chapter 13, Section N, on the accessibility of town services to the disabled.

2. Housing Codes. Municipalities may adopt housing code ordinances establishing “minimum standards for dwellings,” 24 V.S.A. § 5003, following the procedure in 24 V.S.A. Chapter 59. Any such ordinance must include provisions for the recording of orders issued, a

relocation plan for people displaced under the ordinance, and a mechanism for canceling orders that have been followed. Any municipality which adopts a housing code ordinance must establish an agency to administer it and a housing board of review to conduct hearings on matters appealed to the Superior Court.

- 3. Plumbing Codes.** Any city, town or village may adopt rules setting standards for plumbing. 26 V.S.A. § 2174. If the municipality can show that it has satisfactory rules and the resources and intent to enforce those rules, it may be exempt from state rules and inspectors.

Curfews. Municipalities may make “curfew” regulations pursuant to 24 V.S.A. § 2151 if such regulations are conducive to the welfare of children and the good of the people generally. A \$5.00 penalty for each violation of curfew regulations may be charged.

Dance Halls. The selectboard, city council and village trustees can issue, and revoke for cause, a license to a dance hall (a place where dancing occurs, admission is charged and the public is welcome). 31 V.S.A. § 503. The annual fee shall not exceed \$25, or \$5 in the case of a single dance. A police officer shall be present when dancing is conducted, unless the selectboard approves the employment of a licensed security guard in place of the officer.

Dogs. In addition to 24 V.S.A. § 2291 (10), which allows municipalities to regulate dogs, state law provides selectboards with the authority to regulate domestic pets and wolf-hybrids generally. 20 V.S.A. § 3549.

Eating Establishments. The selectboard may regulate bakeries as long as they comply with the Vermont state board of health. 18 V.S.A. §§ 4449 et seq. The board may also license restaurants and other places dispensing food and drink to the public. 9 V.S.A. § 3061.

The Vermont state board of health has regulatory power to ensure that eating establishments (restaurants, bars, cafes, food stands and bakeries) are maintained in a clean, sanitary and healthy manner. The department issues annual licenses to and performs routine inspections of all eating establishments in the state. The license fee schedule can be found in 18 V.S.A. § 4353 (bakeries license fees 18 V.S.A. § 4446).

Environmental Protection

- 1. Air Pollution.** A selectboard may adopt a municipal air pollution control program, if the ordinance establishing the program is at least as strict and extensive as state air pollution control laws. The Agency of Natural Resources (ANR) secretary must approve a local program, after finding the municipality has the resources and staff to administer the program. 10 V.S.A. §§ 564, 569.
- 2. On-site Septic.** A municipality may adopt an on-site sewage ordinance, but the system design standards must meet the minimums set by ANR. 24 V.S.A. §§ 3632-3633. ANR must approve any municipal ordinance before it takes effect, and a local on-site septic ordinance must require that a permit be obtained before the installation or replacement of a system.
- 3. Sewage Disposal Systems.** Selectboards, acting as sewage disposal commissioners, may adopt ordinances for the control and operation of municipal sewage systems. 24 V.S.A. § 3617. When a municipal wastewater treatment plant obtains a discharge permit from the state, the municipality must also enact an ordinance creating standards for the allocation of sewage capacity. 24 V.S.A. § 3625.

4. **Smoking.** The state’s smoking policy includes an admission that the state law is not intended to interfere with the smoking ordinances of municipalities. 18 V.S.A. § 1428. The municipal authority to adopt smoking ordinances is unclear, but presumably would come under 18 V.S.A. § 613.
5. **Water Supply.** A municipality may enact an ordinance to regulate the control and operation of a municipal water works. 24 V.S.A. § 3315.

Fireworks. Before a person can conduct a supervised public display of fireworks, he or she must obtain a permit from the fire chief of the town, or if there is no fire department, from the selectboard, at least 15 days prior to the display. 20 V.S.A. § 3132. Farmers intending to use fireworks to frighten birds from crops must obtain a permit from the selectboard or the town fire warden. 20 V.S.A. § 3133. Such permits can only be issued if they present no fire or safety hazard.

Health. The local board of health, which is comprised of the selectboard and the health officer, is authorized by state statute to make and enforce rules and regulations in such town or city relating to the prevention, removal or destruction of public health hazards and the mitigation of public health risks. 18 V.S.A. § 613.

Highways. The selectboard has the authority to set local speed limits, provided that it has conducted a traffic and engineering study to justify the new limits. 23 V.S.A. § 1007. The board may also adopt ordinances on the operation, use, and parking of motor vehicles. 23 V.S.A. §§ 1008, 1105. A local ordinance may also be adopted regulating the towing of vehicles parked without authorization on publicly or privately owned land. This may include public, municipal or private lots, drives and ways. 23 V.S.A. § 1753.

Hotels, Motels/Innkeepers. The selectboard may issue annual licenses to innkeepers. 9 V.S.A. § 3061. In unorganized towns and gores, this is the responsibility of superior court judges. “Innkeeper” in this section refers to a person who owns and/or operates an inn, hotel, motel or lodging house. Section 3061 does not apply to homes catering to tourists, tearooms or tourist camps.

The licenses for innkeepers must be recorded in the town clerk’s office. The fine for not having a license ranges from \$10 to \$50. If the selectboard does not “revoke a license granted by them when the public good so requires”, the license can be revoked through a request of the county’s state’s attorney or the town’s grand juror to an assistant judge of superior court. Innkeepers must keep a record (names and addresses) of registration of guests for three years. 9 V.S.A. § 3063.

Housing. A municipality may enact ordinances regulating and licensing trailer parks. 24 V.S.A. § 2231. The statute sets out a model ordinance for towns that have no zoning. In towns, this ordinance requires the approval of the electorate at an annual or special town meeting; in villages and cities, the approval of the legislative body may be sufficient if the charter so provides. 24 V.S.A. § 2233. The selectboard may also draft ordinances governing the conversion of rental units to condominiums. Such an ordinance must be submitted to the voters for their approval. 24 V.S.A. § 2293. These ordinances must be supplemental to and not inconsistent with the laws relating to condominiums. (See 27 V.S.A. § 1331-1339.) A municipality may also adopt an ordinance governing security deposits on rental properties. 9 V.S.A. § 4461(g). The ordinance can address issues such as interest payments on a deposit and the creation of a local board to hear

and decide disputes about security deposits. Further consumer protections in the areas of water and sewer disconnections are authorized by 24 V.S.A. § 5148, which allows the selectboard to adopt an ordinance providing for “greater protection” than that already afforded citizens by state water and sewer disconnect laws.

Impact Fees. Any municipality that has been confirmed in its commitment to the planning process and after July 1, 1992 has adopted a capital budget and program may adopt an impact fee ordinance. 24 V.S.A. § 5203. The ordinance may be adopted either as an ordinance under 24 V.S.A. § 1971 or as part of a zoning bylaw.

Junkyards. Junkyards are defined in 24 V.S.A. § 2241(7) as “any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility.” It also means “any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway.”

State law grants the transportation board control over regulating junkyards. This control can be superseded by local ordinances (many municipalities address junkyards in their zoning ordinances) which are more stringent than state regulations of junkyards. 24 V.S.A. § 2243.

Licensing of a junkyard is a joint effort between the transportation board and the selectboard. Junkyard owners must apply to the municipality’s legislative body (selectboard) for a “Certificate of Approved Location” and pay an accompanying fee of \$25 plus advertising and other reasonable costs for the hearing on their application. The hearing must be held by the selectboard not less than two nor more than four weeks from the date of receipt of the application. Some of the factors to take into consideration include: location, size, proximity to interstates, zoning bylaws and aesthetics. The selectboard must issue its decision within two weeks of the hearing, and can make a Certificate of Approval good for three to five years.

Operators of junkyards must also have a license issued by the transportation board. 24 V.S.A. §§ 2242, 2261.

Motor Vehicle Racing. No motor vehicle racing is permitted unless approved by both the selectboard and the state motor vehicle racing commission. 26 V.S.A. § 4802. Approved permits must be filed with the town clerk. Separate permits are required for each race location. The permit shall include: name and address of permittee, race location description, race days and hours, implementation procedures for safety standards, anticipated number of spectators and service and accommodations provided by the committee during the race. 26 V.S.A. § 4805. The state charges substantial application and renewal fees for racing permits. A municipality may charge an additional fee, but the fee may not exceed the municipality’s costs associated with the race. 26 V.S.A. § 4806.

The permittee must obtain liability insurance for bodily injury with limits of not less than \$500,000 per individual and \$2 million per event and property damage with limits of not less than \$2 million. 26 V.S.A. § 4808. The insurance certificate must be filed with the town clerk and the racing commission. Permits issued on and after October 1 of any year remain in force until the following September 30, unless lawfully revoked. The racing commission may refuse any permit for cause and may revoke permits, for failure to comply with any regulation of the commission. 26 V.S.A. § 4813.

The racing commission or Department of Public Safety, acting as agent for the commission, may inspect any race facilities before or during any race and may suspend any permit immediately for failure to comply with this chapter or any race regulation. 26 V.S.A. § 4810. Minimum safety standards for motor vehicle racing are set out in 26 V.S.A. §§ 4811 and 4812. The penalty for violation of these regulations is not more than \$1000.00 or not more than 30 days imprisonment or both. 26 V.S.A. § 4802.

Natural Gas and Oil Resources. Municipalities are specifically stripped of any authority to specify performance standards, methods, materials, procedures or equipment to be used by a gas or oil well operator. The provisions of the Vermont Natural Gas and Oil Conservation Act (29 V.S.A. Chapter 14) supersede them. However, local governments may regulate specific uses permitted or prohibited in land use or zoning districts, and other matters not fully covered by state law, regulation or rule of the Vermont Natural Gas and Oil Reserves Board, to the extent that local regulation does not conflict or interfere with state regulation. 29 V.S.A. § 566.

Nuisances. Municipalities can enact ordinances which define and regulate public nuisances. 24 V.S.A. § 2291(14). Excessive noise, unlicensed domestic pets, unsafe buildings, old automobile parts and sewage are just a few of the items or conditions defined as public nuisances by Vermont municipalities.

Obscenity. Municipalities have no authority to enact obscenity ordinances or regulations in conflict with 13 V.S.A. Chapter 63, the state statutes which try to address the issue. 13 V.S.A. § 2808. This state statute “shall be applicable and uniform throughout the state and all political subdivisions and municipalities therein ...”

Pawnbrokers. Pawnbrokers loan money on deposit of, or pledge of, personal property. The selectboard has the authority to grant licenses to pawnbrokers deciding where and how their businesses can be run. Pawnbrokers must file a \$500 bond with the municipality and keep an accurate record book. Pawnbrokers can only charge 5% on loans less than \$50 and no more than 3% for loans more than \$50. 9 V.S.A. §§ 3861-3871.

Pool Halls. Anyone wishing to operate a pool hall should obtain a license to do so from the legislative body of the municipality in which the pool hall will be located. 31 V.S.A. § 503. The legislative body of a municipality has the authority to make regulations about how pool halls will be operated, and can revoke pool hall licenses for cause. The rules will be recorded in the clerk’s office of the municipality. Pool halls which are run by fraternal, educational or charitable organizations are exempt from regulations. Violators of the statutory provisions for pool halls shall be fined between \$25 and \$100.

Snowmobiles. Municipalities are authorized to adopt ordinances regulating the time, manner and location of operation of snowmobiles within their limits. 23 V.S.A. § 3210. However, the ordinances must be consistent with the provisions of 23 V.S.A. §§ 3201-3216.

Taxis. The selectboard has the authority through 24 V.S.A. § 2031 to regulate jitneys and taxis in their municipality. The regulations proposed by the selectboard are subject to approval of a majority of voters in the municipality at a special or annual town meeting. These regulations can include operation, parking, soliciting, delivery and fares. A fine of up to \$100 per violation can be levied against violators of the regulations.

Television and Radio Interference. Upon receiving a complaint, the selectboard can give notice, investigate and order corrected or eliminated any unreasonable disturbing or interfering

with the reception of radio or television waves. If such order is not complied with within a reasonable time set forth in the notice, and if the cost of compliance is less than \$50, the selectboard may fine the perpetrator not more than \$50. 24 V.S.A. §§ 2091-2093.

Theatres, Concert Halls. The selectboard has the authority to grant licenses to theaters or concert halls which are for profit. If a theater or concert hall operates without a license, a fine of not more than \$100 a day will be imposed upon the owner of the theater. 31 V.S.A. §§ 442, 443.

APPENDIX 5 CHART OF INCOMPATIBLE OFFICES

Can a Person Hold Both of These Offices?	Auditor	Selectperson	School Director	Town Manager	Town Treasurer	Election Official & Candidate (Australian Ballot)	Election Official & Candidate (Not Australian Ballot)	School District Employee ¹	Spouse
Auditor	—	No	No	No	No	No, If Opposed	No	Yes	3
Selectperson	No	—	Yes	No	No	No	No	Yes	
School Director	No	Yes	—	No	No	No, If Opposed	No	No	
Town Manager	No	No	No	—	No	No	No	Yes	
Town Treasurer	No	No	No	No	—	No, If Opposed	No	Yes	
Town Clerk	No	Yes	Yes	No	Yes	Yes	No	Yes	
Assist. Town Clerk	No	Yes	Yes	No	Depends ²	N/A	N/A	Yes	
Town Agent	Yes	No	No	No	Yes	No, If Opposed	No	Yes	
First Constable	No	No	No	No	Yes	Yes	No	Yes	
Road Commissioner	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	
Trustee of Public Funds	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	
Lister	Yes	No	Yes	No	Yes	No, If Opposed	No	Yes	
Tax Collector, Current	No	No	No	Yes	Yes	No, If Opposed	No	Yes	
Tax Collector, Delinquent	No	No	No	Yes	Yes	No, If Opposed	No	Yes	
Grand Juror	Yes	Yes	Yes	No	Yes	No	No	Yes	
Inspector of Elections	Yes	Yes	Yes	No	Yes	Yes	No	Yes	
Justice of the Peace	Yes	Yes	Yes	No	Yes	Yes	No	Yes	

1 Within same supervisory union.

2 See 24 V.S.A. § 1622.

3 A spouse of a town clerk, town treasurer, selectperson, trustee of public funds, town manager, water commissioner, sewer commissioner, first constable, road commissioner, collector of current or delinquent taxes, or town school district director, or any person who assists any of these officers may not be an auditor. 17 V.S.A. § 2647.

APPENDIX 6
CONFLICT OF INTEREST POLICY

Town of _____
[for adoption by legislative body as a policy; applies to all “public officers”]

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the selectboard of _____ hereby adopts the following policy concerning conflict of interest.

Article 2. Purpose. The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public official of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to insure that all decisions made by municipal officials are based on the best interest of the community at large.

Article 3. Definitions. For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

1. A direct or indirect personal interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office or is employed;
2. A direct or indirect financial interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office or is employed;
3. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding before the board. This shall not apply to a member’s particular political views or general opinion on a given issue; and
4. A situation where a public officer has not disclosed ex parte communications with a party in a proceeding before the board.

B. **Emergency** means an imminent threat or peril to the public health, safety or welfare.

C. **Official act or action** means any legislative, administrative or judicial act performed by any elected or appointed officer or employee while acting on behalf of the municipality.

D. **Public body** means any board, council, commission or committee of the municipality.

E. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.

F. **Public officer** or **public official** means a person elected or appointed to perform executive, administrative, legislative or quasi-judicial functions for the municipality.

G. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 4. Disqualification.

A. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.

B. A public officer shall not personally, or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the public body in which the officer holds office or is employed.

C. In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter.

- D. Public officers shall not accept gifts or other offerings for personal gain by virtue of their public office that are not available to the public in general.
- E. Public officers shall not use resources not available to the general public, including but not limited to town staff time, equipment, supplies, or facilities for private gain or personal purposes.

Article 5. Disclosure. A public officer who has reason to believe that he or she ha or may have a conflict of interest but believes that he or she is able to act fairly, objectively and in the public interest in spite of the conflict of interest shall, prior to participating in any official action on the matter disclose to the public body at a public hearing the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively and in the public interest. Nevertheless, the person or public body which appointed that public officer retains the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

Article 6. Recusal.

- A. A public officer shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:
 - 1. Any person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself;
 - 2. A public officer who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity;
 - 3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and
 - 4. The board may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then resume the proceeding with sufficient members present.

In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

Article 7. Enforcement; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures. In cases where the conflict of interest procedures in Articles 5 and 6 have not been followed, the selectboard may take progressive action to discipline an offending public officer. In the discipline of a public officer, the board shall follow these steps in order:

- A. The chair shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.
- B. The board may meet to discuss the conduct of the public officer. Executive session may be used for such discussion, in accordance with 1 V.S.A. § 313(4). The public officer may request that this meeting occur in public. If appropriate, the board may admonish the offending public officer in private.
- C. If the board decides that further action is warranted, the board may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.
- D. Upon majority vote, the board may request that the offending public officer resign from the board.

Article 8. Exception. The recusal provisions of Article 6 shall not apply if the legislative body of the municipality determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 5.

Article 9. Effective Date. This policy shall become effective immediately upon its adoption by the _____selectboard/city council/trustees.

Signatures: _____

Date: _____

APPENDIX 7 PURCHASING POLICY

1. PURPOSE. The purpose of this policy is to create a process for purchasing goods and services that will increase efficiency, promote fairness, accountability and confidence, and provide necessary supplies and services in a timely and cost-effective manner.

2. APPLICATION. This policy shall apply to all purchases of goods and services by the Town of _____ except where conditions of state or federal funds, or conditions of a grant, gift or bequest mandate otherwise.

3. DEFINITIONS.

- a. *Major purchases* are those purchases of goods or services in an amount of \$_____ or more.
- b. *Regular purchases* are those purchases of goods or services in an amount of at least \$_____ but less than \$_____.
- c. *Incidental purchases* are those purchases of goods and services in an amount of \$_____ or less.
- d. *Sole source vendor* is a vendor approved by the legislative body to provide certain goods and services for the Municipality.
- e. *Emergency purchases* are those urgent purchases of goods and services that are required to protect the public health, safety and welfare.

4. PROCEDURES.

- a. **Major purchases** require a formal bid process which shall include:
 - 1.) Advertisement of the invitation to bid or request for proposal (RFP) for at least one week in a newspaper of general circulation in the Municipality of _____;
 - 2.) Advertisement of the invitation to bid or RFP in other newspapers at the discretion of the [municipal manager/legislative body];
 - 3.) Direct notice of the bid or RFP to specific providers at the discretion of the [municipal manager, legislative body];
 - 4.) Notice of the place and deadline for receipt of the sealed bids or RFPs;
 - 5.) A description of the supplies, materials, equipment or services required and information on how and where to obtain more detailed specifications and bid or RFP forms;
 - 6.) Information on insurance requirements for the bidder or proposer;
 - 7.) A statement of the right of the Municipality of [_____] to reject any and all bids or RFPs if doing so is deemed by the legislative body to be in the best interests of the Municipality; and
 - 8.) Public opening of the bids or RFPs by the legislative body at a time not less than 10 business days after the deadline for receipt.

- b. **Regular purchases** require competitive solicitation of bids or RFPs but *may be done* by the formal bid process. Competitive solicitation includes:
 - 1.) Soliciting bids or quotations from at least two (preferably three) vendors unless a sole source vendor has been approved by the [municipal manager/legislative body]; and
 - 2.) Selection of vendor based on quality of the goods and services offered, cost, ability of the vendor to provide future maintenance, and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Municipality.
- c. **Incidental purchases** may be made without a formal bid or competitive solicitation. Such purchases may be made by [department heads, municipal manager, purchasing agent, designee of the municipal manager or legislative body]. Incidental purchasing choices shall be made based on cost, quality of goods and services, and the best interests of the Municipality.
- d. **Sole Source Vendor.** The legislative body may approve a sole source vendor for regular or incidental purchases. Approval shall be made annually at the first regular meeting of the legislative body held in the Municipality’s fiscal year and shall take into account general availability of the goods or services, quality and cost of the goods and services, and the ability, capacity and skill of the vendor demonstrated under prior contracts with the Municipality.
- e. **Leasing Equipment.** The [municipal manager/legislative body] shall approve all leasing of equipment.
- f. **Purchase of Professional Services.** The purchase of professional services for the Municipality shall be exempt from the formal bid process. Such services include, but are not limited to, legal counsel, insurance, engineering/architectural services and consulting services. The legislative body shall purchase such services according to the best interests of the Municipality.
- g. **Cooperative Purchasing.** The Municipality may enter into cooperative lease or purchase agreements with other municipalities, at the discretion of the legislative body.
- h. **Emergency Purchases.** When an emergency threatens the health, lives or property of the residents of the Town, or threatens the property of the Town or the delivery of necessary services to the residents of the Town, the [town manager/legislative body, health officer, road commissioner, fire chief, police chief, constable, service officer, water or sewer commissioners, emergency management chairperson, fire warden] shall have the authority to purchase emergency supplies and services while acting in the best interests of the town.

ADOPTED:

Signatures

Date

APPENDIX 8

VLCT MODEL SELECTBOARD RULES OF PROCEDURE

A. PURPOSE. The selectboard of the Town of _____ is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310-314. Meetings of the selectboard of the Town of _____ must be open to the public at all times, except as provided in 1 V.S.A. § 313. At such meetings, the public must be afforded reasonable opportunity to give its opinion on matters considered by the selectboard so long as order is maintained. Such public comment is subject to the reasonable rules established by the chair of the selectboard. 1 V.S.A. § 312(h).

B. APPLICATION. This policy setting forth rules of procedure for selectboard meetings shall apply to all regular, special, and emergency meetings of the Town of _____ selectboard.

C. PROCEDURES.

1. The chair of the selectboard, or in the chair's absence, the vice-chair, shall chair all selectboard meetings. If both the chair and the vice-chair are absent, a member selected by the board shall chair the meeting.
2. The chair shall rule on all questions of order or procedure and shall enforce these rules as required by 1 V.S.A. § 312(h).
3. A majority of the members of the selectboard shall constitute a quorum. If a quorum of the members of the selectboard is not present at a meeting, the only action that may be considered by the selectboard is a motion to recess or adjourn the meeting.
4. At the beginning of each selectboard meeting, there shall be ___ minutes afforded for open public comment. By [unanimous/two-thirds/majority] vote, the selectboard may increase the time for open public comment and may adjust the agenda items and times accordingly.
5. Each selectboard meeting shall have an agenda, with time allotted for each item of business to be considered by the selectboard. Those who wish to be added to the meeting agenda shall contact the [town manager/selectboard chair/town clerk] to request inclusion on the agenda. The selectboard chair shall determine the final content of the agenda.
6. All business shall be conducted in the same order as it appears on the agenda, except that by [unanimous/two-third/majority] vote of the selectboard, the order of items to be considered and/or the time allotted may be modified.
7. Public comment on issues discussed by the selectboard, if not offered during the open public comment period, may be offered during the meeting with the permission of the chair. Such comment, if permitted, shall be limited to ___ minutes, unless by [unanimous/two thirds/majority] vote, the selectboard increases the time for public comment.

8. Meetings may be recessed to a time and place certain.
9. These rules shall be made available at all meetings, and procedures for public comment shall be reviewed at the beginning of all meetings.
10. These rules may be amended by [unanimous/two thirds/majority] vote of the selectboard, and must be readopted annually at the organizational meeting.

ADOPTED: _____

Signatures

Date

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