



# Town of Shelburne, Vermont

SELECTBOARD MEETING AGENDA  
SHELburnE TOWN OFFICES, 5420 SHELburnE ROAD  
Tuesday, December 7, 2021, 7:00 P.M.  
IN PERSON MEETING – ZOOM OPTION DETAILS BELOW

Join SELECTBOARD Zoom Meeting

<https://us02web.zoom.us/j/86582545683?pwd=RUEzampId050TUVVWjZ0WFB2Q3lqdz09>

Meeting ID: 865 8254 5683; Passcode: VV908q

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

Meeting ID: 865 8254 5683; Passcode: 985513

<b>Call to Order/Roll Call</b>	<b>7:00 P.M.</b>
<b>*Approve Agenda</b>	<b>7:00 P.M.</b>
<b>*Approve meeting minutes of November 23, 2021</b>	<b>7:00 P.M.</b>
<b>Public Comments re: items not on the agenda</b>	<b>7:05 P.M.</b>
<b>Selectboard Comments</b>	<b>7:15 P.M.</b>
<b>Town Manager Report</b>	<b>7:20 P.M.</b>
<b>Introduce new Planning Director Adele Gravitz</b>	<b>7:25 P.M.</b>
<b>*Discussion regarding new legislation allowing for a municipal mask mandate</b>	<b>7:35 P.M.</b>
<b>*Decision regarding election ballots: mail to all, or by request only?</b>	<b>7:45 P.M.</b>
<b>Fiscal Year 2022-2023 Budget Analysis/Discussion, round 1</b>	<b>7:55 P.M.</b>
<b>*Grant applications for HPDRC and Fire/Rescue</b>	<b>8:55 P.M.</b>
<b>*Resume public hearing on proposed zoning amendments/update</b>	<b>9:00 P.M.</b>
<b>*Executive Session re: the appointment, employment, or evaluation of a public officer or employee</b>	<b>9:10 P.M.</b>
<b>*Adjourn</b>	<b>9:30 P.M.</b>

\*Decision item. Times noted are approximate, and depend upon how each topic's discussion flows.

**TOWN OF SHELBURNE  
SELECTBOARD  
MINUTES  
November 9, 2021**

**\*Hybrid meeting held via teleconference and in-person.**

**MEMBERS PRESENT:** Mike Ashooh (Chair), Kate Lalley, Luce Hillman, Mary Kehoe. (Cate Cross was absent.)

**ADMINISTRATION:** Lee Krohn, Town Manager; Peter Frankenburg, Finance Director; Highway Superintendent, Paul Goodrich; Buildings & Grounds, Darwin Norris, Kyle Wagner; Parks & Rec Director, Betsy Cieplicki; Library Director, Kevin Unrath; Diana Vachon, Town Clerk.

**OTHERS PRESENT:** Members of the public participating in the meeting included Gail Albert, Don Rendall, Wanda Morgan, Patricia Fontaine, Linda Riell, Sue Furry-Irish, Sgt. Josh Flore, Don Porter, Jennifer Hoenigsberg, Sean Moran, Erika Lea, Susan McLellan, Peggy Coutu, Tom and Jane Zenaty, Jessica Brumsted, Susan, Tompkins, Ken Scott, Halini Gangi, Dean Pierce, Becky, Kristin Jangraw, Lisa Merrill, Rob Broder, Jim White, Scooter MacMillan, Rick Bushey, Mark Sammut, Jason Grignon, Media Factory

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**1. CALL TO ORDER**

Chair Mike Ashooh called the hybrid in-person and teleconference meeting to order at 7 PM.

**2. APPROVE AGENDA**

**MOTION by Kate Lalley, SECOND by Luce Hillman, to approve the agenda as presented. VOTING: unanimous (4-0); motion carried.**

**3. MINUTES**

*October 19, 2021 & October 26, 2021*

**MOTION by Luce Hillman, SECOND by Kate Lalley, to approve the minutes of 10/19/21 and 10/26/21 as presented. VOTING: unanimous (4-0); motion carried.**

**4. PUBLIC COMMENT**

- There was a request for the Selectboard to find out why police officers are leaving the department for other towns. Concern was expressed about not having enough officers in Shelburne to cover the town.
- A resident asked for information on who is providing support services to residents and homeless at Days Inn. Mike Ashooh said the level of support from the state is inadequate. The town's Social Services Committee has been providing some services.

**5. SELECTBOARD COMMENTS**

- Mary Kehoe expressed appreciation for being able to participate in the meeting remotely.

**6. TOWN MANAGER REPORT/UPDATE**

Lee Krohn reported:

- Veteran's Day ceremony will be held 11/11/21 at the Veterans Memorial in town.

**7. APPOINTMENT(S)**

*Library Board of Trustees*

Kristin Jangraw expressed her interest in serving on the board stems from being a "super user" of the library with her family.

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to appoint Kristin Jangraw to the Pierson Library Board of Trustees to replace John Boscia for a term to begin immediately and ending April 1, 2023. VOTING: unanimous (4-0); motion carried.**

*Poet Laureate*

Rob Broder, author of poetry and children's books, said he is honored, flattered, and humbled to be nominated as poet laureate for the town and will bring his passion for poetry and literature to the position.

**MOTION by Kate Lalley, SECOND by Mary Kehoe, to appoint Rob Broder as Shelburne's poet laureate for a three-year term beginning immediately and ending April 2024. VOTING: unanimous (4-0); motion carried.**

Kevin Unrath said an event will be held to honor Rick Bessette, previous poet laureate for the town.

**8. BUDGET PRESENTATIONS FY23**

Department Heads and committee representatives presented their FY23 budgets:

*Town Clerk*

The Town is once again processing passports by appointment only; revenue is coming in. Assistant Town Clerks want to earn their certifications so the budget includes money for in-state workshops, conferences, trainings. Town Clerk will also attend due to a position in the State Clerk's Association. The state covers mailing expenses for state and national elections. The town pays printing costs and has estimates. The School pays half the expense for the March elections with the town. The Town and School need to decide how voting will take place (in-person or mail-in).

*Equity/Diversity Committee*

The committee is asking that the charter be changed relative to municipal employees serving on the committee. The budget includes money for flyers and a consultant to give the committee direction and training opportunities and apply for grants. The committee is researching scope of work and consultants working in nearby towns.

There was discussion and a motion made to amend the charter to say that up to two Town employees may be members (current charter requires that two members be Town employees. Upon further discussion the following motion was made:

**MOTION by Mike Ashooh, SECOND by Mary Kehoe, to amend the town charter as it pertains to the Equity & Diversity Committee to state that it is preferred that up to two members of the Equity & Diversity Committee be employees of the town. VOTING: unanimous (4-0); motion carried.**

#### *Social Services Committee*

The budget request is \$38,000 plus \$2,000 for the Community Fund.

#### *Buildings & Grounds*

The 2008 F-250 truck is rusting out and will not pass the next inspection so a replacement is needed. The truck is shared with Parks & Rec. A Gator vehicle would be very useful and shared by both departments. There is a list of capital projects for Town buildings and grounds. Projects include carpet replacement, roof repair/replace, parking lot and sidewalk work. Sprinkler heads in buildings may need to be replaced per state mandate. Lights are being replaced with LEDs.

#### *Highway*

The budget includes two more employees (salary and benefits), money in the equipment fund for a truck, and money to chip seal Pond Road.

There was discussion of paving Pond Road (\$450,000 investment) or declaring the road Class 4 and having residents on the road maintain it.

#### *Parks & Rec*

Program and office expenses are mostly covered by program fees. Beach daily operating expenses are not fully covered by fees. One option could be to increase the cost of a beach pass. Money is requested (\$2,000) to augment donations from area businesses to cover the cost of special events so donations do not have to be collected at the door. The Selectboard is asked to approve a 20-year bond of \$350,000 for the beach house.

#### *Library*

The library expects usage will double. The budget includes an additional \$5,000 in the line item for materials, money for a 30 hour per week staff position (salary and benefits), and a 2% cost of living increase for current staff.

#### *Natural Resources and Conservation Commission*

The request for the Conservation Fund in the CIP is \$55,000. The budget also seeks \$15,000 for an environmental consultant to document forest blocks, wildlife corridors, and other special natural resources in town, and \$1,000 to cover miscellaneous expenses for memberships, conferences, registrations, education.

*Dog Park Committee*

The budget includes an additional \$3,000 for work on vegetation removal and fence repair, to be matched by equivalent funding already in hand.

**9. PUBLIC HEARING: Proposed Zoning Amendments**

**MOTION by Luce Hillman, SECOND by Kate Lalley, to resume the public hearing to consider zoning amendments proposed and approved by the Planning Commission. VOTING: unanimous (4-0); motion carried.**

The public hearing resumed at 9:28 PM on 11/9/21.

*Two-Step Review Process*

There was discussion of ensuring the public is informed of the hearings before the DRB. It was noted there are no changes proposed to the nature of the public notices in the bylaws and staff can work on handling notification of the public and Town committees internally rather than changing the regulations and adding the burden of a third meeting just to ensure the public is informed. Mary Kehoe stressed the need to make sure it is clear how the public is notified and that each hearing before the DRB is a quasi-judicial hearing where evidence is accepted. Title 24 of Vermont statute should be cited. Members of the Natural Resources Committee asked that the committee be involved in the review process as early as possible.

*Fences*

There was discussion of the rule on fences being 5' from the public sidewalk and impact on historic homes and the effort to increase pedestrian appeal in the village. Kate Lalley suggested the language be amended such that fences may be placed as close as 3' back from a public sidewalk if along a property with a designated historic house or within the Town's designated design review or historic districts; otherwise, the 5' setback would apply elsewhere.

The proposed amendments will be sent back to the Planning Commission for consideration and/or further edit.

**MOTION by Luce Hillman, SECOND by Kate Lalley, to recess the public hearing on proposed zoning amendments until 12/7/21. VOTING: unanimous (4-0); motion carried.**

**10. LATE PROPERTY TAX PAYMENT PENALTY***Brigid Chick, 229 Penny Lane*

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to waive the late property tax penalty of \$29.12 for property at 229 Penny Lane owned by Brigid Chick for reasons given which the Selectboard finds justified under criterion #6 of the town's tax policy 18-01. VOTING: unanimous (4-0); motion carried.**

*Jeffrey Halverson*

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to waive the late property tax penalty of \$1,327.71 for Jeffrey Halverson for reasons given which the Selectboard finds justified under criterion #6 of the town's tax policy 18-01. VOTING: unanimous (4-0); motion carried.**

**11. ADJOURNMENT**

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to adjourn the meeting. VOTING: unanimous (4-0); motion carried.**

The meeting was adjourned at 10:21 PM

*RScty by tape: MERiordan*

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For the Selectboard

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Date

**TOWN OF SHELBURNE  
SELECTBOARD  
MINUTES  
November 23, 2021**

**\*Hybrid meeting held via teleconference and in-person.**

**MEMBERS PRESENT:** Mike Ashooh (Chair), Kate Lalley, Luce Hillman, Mary Kehoe, Cate Cross.

**ADMINISTRATION:** Lee Krohn, Town Manager; Peter Frankenburg, Finance Director; Water Quality Superintendent, Chris Robinson; Police Chief, Aaron Noble; Fire Chief, Jerry Ouimet; Rescue Chief, Jacob Leopold; Tree Warden, David Hall; Diana Vachon, Town Clerk.

**OTHERS PRESENT:** Members of the public participating in the meeting included Susan, Tom Tompkins,, Joyce George, Jane and Tom Zenaty, Dean Pierce, Patricia Fontaine, Anne Powell, Charlie Jones, Bill Deming, Ted Grozier, Madeline, John Goodrich, Jim Mack, Barbara Johnson, Bob Lake, Scooter MacMillan, Olga Cruz/Ella, iPhone, Caryn Feinberg, Kristen Shamis, Gail Henderson-King, Chris Kent, Michael Thomas, Steve Metz, Jessica Brumsted, Ray Duggan, Linda Riell, Zoe Hart, Karen Chatfield, Carol Bick, Susan McLellan, Peggy Coutu, Marcela Pino, Gina Clithero, Mike Donoghue (Shelburne News), Media Factory

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**1. CALL TO ORDER**

Chair Mike Ashooh called the hybrid in-person and teleconference meeting to order at 7 PM.

**2. APPROVE AGENDA**

**MOTION** by Kate Lalley, **SECOND** by Cate Cross, **to approve the agenda as presented. VOTING: unanimous (5-0); motion carried.**

**3. MINUTES**

*November 9, 2021*

Postponed to the next meeting.

**4. PUBLIC COMMENT**

- Several members of the public requested the Selectboard find out why so many police officers and dispatchers are leaving their job with the Town and seeking employment elsewhere. The Selectboard confirmed they are aware of the matter.
- Jessica Brumsted reported the state legislature passed a bill allowing towns to implement local mask policies. Ms. Brumsted expressed gratitude to Shelburne residents for doing what can be done to take care of their neighbors.

- Susan McLellan thanked the town for the blinking lights on the stop sign at the intersection of Falls Rd./Mt. Philo Rd./Marsett Road, and mentioned that residents in Hedgerow do not feel neighbors are taking care of neighbors.

## 5. SELECTBOARD COMMENTS

- The Selectboard urged booster shots, mask mandates, getting burn permits as needed, doing morale interviews with employees, and wished everyone a Happy Thanksgiving.

## 6. TOWN MANAGER REPORT/UPDATE

Lee Krohn reported:

- December 3<sup>rd</sup> is tree lighting and caroling at the library.
- Town offices closed 11/25/21 and 11/26/21 for the Thanksgiving holiday.
- Town to participate in a pilot program with the electric company and Efficiency Vermont that adjusts the library thermostat at peak hour demand in exchange for a discount on the Town's power bill. The Town can override the adjustment as needed. Reducing peak load power demand can save all ratepayers costs by the power company avoiding having to purchase power at times of peak cost.

## 7. FAIR & IMPARTIAL POLICING POLICY

The Selectboard heard a presentation on protection of immigrants from police inquiring about immigration status, and heard from a migrant farm worker expressing fear of being deported if stopped by the police. The Selectboard was urged to support the proposed policy.

The Selectboard will postpone action until the committee has opportunity to review and respond to the Town Attorney's response to the policy. Some legal implications will need to be considered, as the Town cannot adopt a policy contradicting federal law.

## 8. WASTEWATER TREATMENT FACILITY CONSOLIDATION PLAN

Water Quality Superintendent, Chris Robinson, explained the predesign study and scoping of the best option (Route 7 or TiHaul) for the treatment plant consolidation plan.

**MOTION by Cate Cross, SECOND by Mary Kehoe, to proceed to the predesign phase of the Town's wastewater treatment facility consolidation plan as recommended and represented by the Water Quality Superintendent. VOTING: unanimous (5-0); motion carried.**

## 9. FY2022-2023 BUDGET PRESENTATIONS

*Tree Committee Arbor Day Proclamation*

Lee Krohn read the Arbor Day Proclamation for May 7, 2021 and May 6, 2022.

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to adopt the Arbor Day Proclamation as read by the Town Manager to include May 7, 2021 and May 6, 2022. VOTING: unanimous (5-0); motion carried.**



*Tree Committee*

Gail Henderson-King stated the Tree Committee budget is level funded. Aside from the budget the committee is requesting a stipend of \$1,500 for the work of the Tree Warden.

*Village Pedestrian Safety Group*

Jane Zenaty stated there is a list of projects for the connectivity study to make Shelburne a more walkable and bike-able community. It is hoped that recommendations of the connectivity study get funded and implemented.

*Bike/Ped/Paths Committee*

Ted Grozier reviewed the project “wish list” that hopefully will be funded. The list includes safety items, using the Gator to spread gravel on trails, work on the bridge across Monroe Brook, covering shortfalls on the Falls Road footbridge, and holding regular meetings with the Highway Department.

*Rescue*

Chief Leopold reviewed the history of the department, current staffing, and call volume. The budget shows a 2.4% increase. Due to the decrease in volunteerism, it is suggested to go to more per diem hours and an in-kind contribution for volunteer hours. Improvements are needed as described to the building. The purchase of an ambulance and defib machine are deferred for a year due to reduction in revenues (many calls for service are for persons on Medicare/Medicaid, which do not reimburse fully for actual costs billed).

*Fire*

Chief Ouimet reported the budget increase is due to the cost of supplies and materials. Capital costs include a radio upgrade and replacement of Car 1. Volunteerism is down in the department so an increase in the stipend to a sustainable wage is requested as well as the addition of a per diem firefighter at 20 hours/week.

The Selectboard spoke in support of all Town departments investigating electric vehicles when replacing cars/trucks.

*Police*

Chief Noble reported the budget shows replacement of one cruiser, an increase of \$1,000 for firearms and ammo, officer safety program construct, and salary and overtime wages (to be determined after contract negotiations are complete). Shelburne is behind neighboring communities in salary amounts for police and dispatch and needs to be at least competitive in order to hire experienced people.

*Planning & Zoning*

Lee Krohn reported the budget is in flux due to trying to fill vacant positions. Although our new Planning Director begins work on December 1, the salaries for a DRB Coordinator and support staff are not yet determined. The budget shows a decrease in grant funded projects with most of these projects now to be handled more in-house.

*Stormwater*

A level funded budget is proposed based on this year's amount from the General Fund; this will also include for next year the Town's own required contribution to the stormwater utility for its own impervious surfaces.

*Finance/Administration/Town Manager*

Peter Frankenburg highlighted the following:

- Legal expenses are difficult to predict.
- Workers comp insurance is level funded.
- Short term disability insurance may be added to the budget.
- Health insurance rates are flat.
- Stormwater is level funded.
- Chittenden County Court, CCTA, and other regional assessments have not yet been received.
- Contracts for rental of Town facilities are being renewed.
- IT virus and other protection strategies are being increased, given increased prevalence of ransomware and other risks; the budget includes replacement of the server.
- The Town Manager Budget includes salary support for staff, a \$2000 increase for Emergency Management, and \$20,000 for possible parity adjustments to salaries as may be appropriate.

**10. EXECUTIVE SESSION: Real Estate**

The regular meeting was recessed at 9:31 PM.

**MOTION by Mary Kehoe, SECOND by Luce Hillman, pursuant to 1VSA313 to find that premature general public knowledge of the Town's strategy in negotiating or securing a real estate purchase or lease options would clearly place the Town at a substantial disadvantage. VOTING: unanimous (5-0); motion carried.**

**MOTION by Mary Kehoe, SECOND by Kate Lalley, pursuant to 1VSA313 to enter into Executive Session to evaluate the Town's strategy in negotiating or securing a real estate purchase or lease options, and to invite the Town Manager, Town Attorney, and members of the Fire/Rescue Property Steering Committee to participate. VOTING: unanimous (5-0); motion carried.**

Executive Session was convened at 9:32 PM.

**MOTION by Kate Lalley, SECOND by Mary Kehoe, to resume the regular meeting. VOTING: unanimous (5-0); motion carried.**

The regular meeting resumed at 10:30 PM.

***ACTION FOLLOWING EXECUTIVE SESSION***

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to accept the Partial Assignment of Option for Road to Hana, Inc. d/b/a Healthy Living Market & Café**

to the town with any necessary non-substantive changes as deemed necessary by the Town Attorney, and to authorize the Town Manager to sign on behalf of the town, and further, to authorize the Town Manager upon the Town Attorney determining there are no outstanding title issues with the property to notify Rice Lumber, Inc. before November 30, 2021 that the town accepts the option to purchase the property for the agreed upon purchase price of \$650,000. **VOTING: unanimous (5-0); motion carried.**

**11. ADJOURNMENT**

**MOTION by Kate Lalley, SECOND by Luce Hillman, to adjourn the meeting.**

**VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 10:32 PM

*RScty by tape: MERiordan*

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For the Selectboard

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Date



# Town of Shelburne, Vermont

SELECTBOARD MEETING

*ANNOTATED AGENDA*

SHELBURNE TOWN OFFICES, 5420 SHELBURNE ROAD

Tuesday, December 7, 2021, 7:00 P.M.

IN PERSON MEETING – ZOOM OPTION DETAILS BELOW

Join SELECTBOARD Zoom Meeting

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Meeting ID: 865 8254 5683; Passcode: 985513

<b>Call to Order/Roll Call</b>	<b>7:00 P.M.</b>
<b>*Approve Agenda</b>	<b>7:00 P.M.</b>
<b>*Approve meeting minutes of November 23, 2021</b>	<b>7:00 P.M.</b>
<b>Public Comments re: items not on the agenda</b>	<b>7:05 P.M.</b>
<b>Selectboard Comments</b>	<b>7:15 P.M.</b>
<b>Town Manager Report</b>	<b>7:20 P.M.</b>
<b>Introduce new Planning Director Adele Gravitz</b>	<b>7:25 P.M.</b>

We are very pleased that Adele has joined our team as of December 1, and thought this a helpful and important opportunity to introduce her to the Selectboard and our community.

<b>*Discussion regarding new legislation allowing for a municipal mask mandate</b>	<b>7:35 P.M.</b>
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As many are aware, there has been discussion in various arenas whether to reinstitute a mask mandate. By action of the Legislature, municipalities are enabled to adopt a temporary mask mandate if felt appropriate or necessary. If approved by the Board, the indoor mask policy in public settings may now be made for up to an initial 45-day period, subject to renewal every 30 days until the end of April when the temporary enabling authority expires.

I'm sure there are varying opinions on this subject. From my own perspective and observations, I find that Shelburne residents have generally been respectful in this regard and have been voluntarily wearing face coverings when in indoor public places out of respect for their own health and the health of others. I'm not sure that enacting a mandate is necessary here, nor am I sure that those who don't already wear face coverings would suddenly change their behavior.

That said, we all know that cases continue to increase, and hospitals are reaching capacity/emergency surge levels of patients due almost entirely to unvaccinated persons, creating challenges not only for those who must care for these persons, but for those whose own medical needs must be postponed. Understandably, this may factor into any decisionmaking in this matter.

In light of this temporary enabling authority, the Vermont League of Cities and Towns has prepared two different "model resolutions" (attached) for municipalities to consider if they choose to enact a mask mandate. One includes enforcement language and authority, the other does not.

This leads to my other concern regarding this matter: either how we would actually enforce such a mandate, or whether a mandate carries any actual weight if there is no enforcement. These are questions I would ask in any rulemaking circumstance, not just here regarding masks. So while acknowledging the clear and present public health challenge before us, I wonder if we can ultimately be more effective as community leaders via moral suasion or mandate.

To be sure, some municipalities (Brattleboro and Warren, for example) have enacted mask mandates; the Town of Hartford chose not to for the same reasons I've noted above. Burlington just adopted a mask mandate, with certain exceptions, as reported on VT Digger: *"people do not have to wear masks in restaurants, convenience stores or gyms if everyone in the establishment has shown proof that they are vaccinated, the ordinance stated. In retail stores, masks are required of everyone regardless of vaccination status. Places of worship are exempt from the directive"*. Other area municipalities are also discussing this, with outcomes yet unknown; Milton and Hinesburg are not adopting a mandate at this time. Please also find attached a letter from Shelburne Athletic Club, asking that if the Board adopts a mandate, it includes exceptions similar to Burlington's.

As always, it's the Selectboard's decision; but by placing this on the agenda for discussion, it will have been brought forward consciously, and not let lie by default.

**\*Decision regarding election ballots: mail to all, or by request only?**

**7:45 P.M.**

As you may also be aware, discussion ensues once again as to how to handle election ballots in the year to come. It's a more complicated question than may first appear, for as you know, there are separate ballots for municipal and school related matters; and with a consolidated school district, it becomes an "all or nothing" approach – all municipalities within a district must administer the school district's election in the same way. To date, it appears that there is consensus among Town Clerks and the School District to do what has typically been done, which is to mail ballots only to those voters who request them.

All other voters may cast their ballots in person once early voting has begun, or on Election Day. This is a far less costly and far less time and resource intensive approach than mailing ballots to all registered voters, keeps it consistent between Town and School ballots, and is the approach we recommend.

## **Fiscal Year 2022-2023 Budget Analysis/Discussion, round 1**

**7:55 P.M.**

This is the first of our three-evening analysis and discussion of next year's budget. For tonight, please find below thoughts and suggestions for either smaller, simpler matters that I believe are easily resolved, and also some of the bigger-ticket matters that are driving the budget increase as presently proposed – some of which I believe are essential, and others that may be harder to justify, disappointing as that will be to their proponents.

First, as background: the first-round draft budget attached in this packet represents an “all in” approach – it includes all requests made by all departments or committees, along with our best estimates for other matters for which we may not yet have firm figures. It does not include the changes suggested in this memo. Finance Director Peter Frankenburg deserves great thanks once again for the long, tedious hours he has spent entering all of these numbers into the master spreadsheet, along with all else that he does.

As you will see, this first draft would result in an estimated property tax increase of 5%, which we don't imagine the Selectboard will support; and this does not include any new debt payments on the capital side as have been proposed; nor does it include any presumed cost of living increases for non-Union employees. Even though the municipal portion of the property tax bill is roughly only  $\frac{1}{4}$  of the total (the other  $\frac{3}{4}$  being on the 'school' side of the ledger), it's still a larger increase than has typically been presented to the voters; and we know that residents' primary attention is always paid to the municipal side of the budget. So here goes my “first round draft picks” for your consideration:

**CBC training requests:** there are renewed requests from various committees for their own independent training budgets. We had already resolved this several years ago by combining these into a single, consolidated training line, and I see no need to change back. Further, very little of this budget line has actually been spent in recent years, so the requests now before us (\$1000 here, \$1200 there... far exceed actual apparent needs as demonstrated by prior actual expenditures. In recent years, we've actually increased that combined training line from \$1500 (FY'20) to \$2500 (FY'21) to \$3500 (FY'22) to ensure that CBC members could avail themselves of training opportunities upon demonstrated value or need. Given historical use and no known actual needs at this time, it seems that \$3500 should be more than sufficient to accommodate these requests. Along these lines, I note that the Equity and Diversity committee seeks its own separate \$2400 for print materials and advertising. That is a significant amount for one committee relative to that allocated for all other CBCs combined.

Similarly, the Equity and Diversity committee seeks a commitment of \$15,000 for the next three years for consulting services. This is a big ask, appears to be based upon what other communities are doing (yet about which we don't know their success, nor what they may have learned that could be applicable here at no cost), and appears based on presumptions of problems that have not been demonstrated to exist. It is also based on what appears to be exceedingly high consulting costs,

estimated at \$275-\$500/hour. By comparison, the diversity/anti-bias trainer used by the Police Department for their required training charges \$100/hour.

Similarly, the Natural Resources and Conservation Commission seeks its own \$15,000 allocation for consulting services, which it believes essential to its own work. It is worth asking whether that full amount is actually needed, and whether that work could be performed or accomplished through other less costly means. For example, the Regional Planning Commission provides a wide array of de facto consulting services to municipalities as staff are available for \$50/hour, far less than private consultants. There may also be internship opportunities through area colleges and universities that can be free or low cost and still provide high quality work.

NRCC also seeks a significant increase in the appropriation for the open space fund, to \$55,000. Presuming Selectboard support for this fund, I recommend holding the line at \$50,000. There are already significant funds “in the bank”, and in terms of seeking a dynamic balance between what some believe “should” be done and the wide array of other wishes and needs. Others would argue that we “should” be putting more than \$50,000 each year into bike/ped/traffic safety improvements. Both camps might be right (and I offer these as examples, not suggesting that these are pitted against each other); but can we afford everything that we’d like to do in an ideal world? Seems that \$50,000 is a reasonable figure in addition to what’s already in the bank, absent any known priority projects on the horizon.

**Pond Road paving:** this is a perennial request, understandable from a maintenance perspective, but the question must be asked whether it’s realistic to continue to spend time and energy on this. At one point, it was suggested that an environmental analysis should be done on this. In a perfect world, that might make sense, but as always, it becomes a time/cost/resource challenge for which the bandwidth does not exist in house. Further, and reduced to its essence, we already know what the answers will be: those concerned about environmental issues already believe it will be harmful to water quality, animal life, and rural character; our own environmental consulting engineers who worked on this road two years ago believe it would improve water quality by reducing sediment and adsorbed chemical/nutrient runoff. Never the twain shall meet on this issue, especially when the competing interests of environment and roadway maintenance come from entirely different perspectives.

From a practical perspective, roadway analyses done elsewhere based on maintenance costs/challenges suggest that it is a long run savings of time and expense to maintain paved vs gravel roads that carry traffic volumes as we have here. Perhaps a different question is whether we are trying too hard to maintain this road to unrealistic standards, especially given staffing constraints noted elsewhere in this memo. Perhaps we should reclassify Pond Road as a Class 4 road and decrease our legal responsibility for maintenance. I note also that the question of paving Pond Road was the subject of a Town vote not that long ago. That’s not to suggest it can’t or shouldn’t be revisited if circumstances change or new, relevant information not known before is now in hand. I’m just not sure that these are the case.

Furthermore, if we were to dedicate the requested \$350,000 in additional funds for a highway project, would this be our highest priority? If federal infrastructure funds were available for other long-desired improvements (but required a local match) such as replacing the Bay Road bridge, or raising the height

of the Bay Road rail underpass, or suggested bike/ped path extensions along Bay Road or Harbor Road, might these not be higher priorities? When considering big ticket items like Pond Road, it's important to broaden the focus beyond the immediate question presented to other needs and opportunity costs potentially otherwise foregone.

I respect Highway Superintendent Paul Goodrich's judgment on matters related to roads, sidewalks, bike/ped travel, and related matters. He has a deeper understanding of these issues than anyone else; a deeper understanding than he is often given credit for. Yet it seems hard to justify this expense for this purpose in light of other possibilities or needs in the highway arena and across Town departments.

Finally, if we really do intend to conduct an environmental analysis of paving Pond Road, then we should dedicate funding in next year's budget to get it done. While I am not in favor of hiring consultants every time we think an issue needs to be studied, if we were able to do this work ourselves in this particular case, it will be subject to too much political pressure from various "sides", and any conclusion drawn will inevitably be criticized by those who did not find it satisfactory. And if we're really not inclined to put that kind of money into Pond Road, then we should just let the matter rest.

#### **Additional staffing:**

**Library:** seeks an additional 30 hour/week staff position. Fully loaded with benefits this could be as much as \$50,000/year. While appreciating the value that the library brings to our community, and the increase in use that we hope the new library is now and will continue to experience, it's hard to see how or why an additional employee can be justified at this time. South Burlington may have increased staff with its new larger library, but that city also serves a much larger population and has far greater financial resources to both pay off their bond and to manage their facilities.

**Highway:** seeks two additional full-time employees. Fully loaded with benefits this could total as much as \$120,000/year. The challenge here is both fiscal and operational: it's a large amount of money that compounds each year into the future, yet as we continue to add new roads and sidewalks to maintain, we continue to do so with the same number of staff as we've had for many years. To me, this presents a compelling argument operationally, but is still difficult to justify financially.

While not seeking delay for its own sake, it seems to me that these both beg a larger question of a staffing audit across the board, as Selectboard Chair Mike Ashooh has suggested, to gain a clearer understanding of our entire municipal operation, and where staffing challenges and opportunities may be given current and foreseeable responsibilities. Water believes it needs one or two more employees; Stormwater believes it needs additional staff; and they are not alone. Peter Frankenburg does more work than any one person should ever have to do. We run a very lean ship here for all of the work that everyone does, with basically the same number of employees as we've had for many years in a much more complex legal and operational environment than in years past.

**Police/Dispatch Union:** As you know, this collective bargaining agreement is still in process. Based on salaries being offered by other area agencies with whom we compete for employees, it is likely that salaries will have to increase by a larger amount than we might prefer. Significant increases are anticipated for salaries as part of a recruitment and retention strategy in an ever more competitive



market for both Officers and Dispatchers. While these may be difficult to swallow, and not wishing to engage in an “arms race” with other municipalities regarding salaries, it’s been clear that when interested, qualified applicants come in the door, they turn away when they see our current contractual salary ranges.

**Legal:** We have held this budget line at \$60,000 for a number of years running. As Peter knows well, I have done my best to hold the line on legal expenses, challenging ourselves to be expert in our fields and to answer as many questions as we can for ourselves and our boards rather than always running to the attorneys; yet even with that, expert legal advice is needed frequently; and at times, it can be more costly in the long run to avoid seeking counsel when it is truly needed. I recommend increasing this line to \$80,000. While in both FY’19 and FY’20, we held this line under budget, last year we spent twice what was budgeted. This year will not likely be different, as various external drivers have required significant investment in legal advice. The world is not getting any simpler when it comes to challenging matters. We will certainly continue our efforts to keep these costs in check, but I think it imprudent to believe we can keep this level funded.

**Fire Department stipends:** proposed here is a 75% increase, from \$57,000 to \$100,000. To be sure, no one volunteers to take on the incredible risks and time commitment involved in the fire service for the money. Yet here and elsewhere, volunteerism is decreasing to all-time lows. Chief Ouimet reports that our volunteer firefighter roster right now is the lowest he’s seen in his decades on the department. And while the costs of life safety and mission critical equipment continue to escalate as also proposed in the FD budget, none of that matters if we can’t attract and retain the volunteers needed to keep our community safe. If we didn’t have enough volunteers and had to transition to a paid department, it would cost orders of magnitude more than the \$400,000 annual budget proposed here. All that said, dramatic as this stipend increase is, it may well be an essential cost that represents real dollars, but which also represents significant avoided costs in hoping to hold off the day when we might need to transition to a partially or fully paid fire department.

However, as also important as I know that it is to the officers of the department, I recommend holding off on the paid per diem position at this time. This will serve to partially offset the volunteer stipend increase, and would allow this part time position to be analyzed as part of the larger staffing audit referenced above. There are also costly capital items sought by the department this year that are essential to providing effective life safety and property protection services to the community.

NOTE: in full disclosure, my contract prohibits me from receiving the volunteer firefighter stipend, so I receive no financial gain from any existing or proposed volunteer stipend.

**Non-Union staff salaries:** although this has not yet been discussed, and not knowing the Selectboard’s comfort level with any possible cost of living increase, we have in this first round draft incorporated a 2% COLA as has historically been granted in order to understand effect on the overall budget.

These represent just some of the matters I thought worth bringing to our attention at this early stage in the budget review process; there will surely be other questions, concerns, and suggestions as we work together to distill all of this toward an acceptable outcome.

**Rescue:** This is one area in which I believe increases over the current proposed budget are required. While respecting Rescue Chief Jacob Leopold's yeoman efforts to hold the line on this budget, I think we're pushing too hard here on this essential lifesaving service that to date has been self-supporting, but which cannot continue that way. Regarding volunteer incentive compensation, offered to those who attend trainings, meetings, and other matters above and beyond the minimum service required of members, I suggest restoring the \$3000 otherwise proposed to be cut. Rescue cannot survive on the minimum service requirements, steep as they are; and if not for the unseen, yeoman dedication of several of the officers, who step up whenever needed to fill shifts, Rescue would be out of service at times and unavailable to serve our needs in times of emergency. And it's no secret that Rescue has been under incredible pressure in recent times, due not only to COVID but to the huge increase in calls for service due to the State's housing program in our various lodging establishments. Rescue has already set new records for call volume this year, and many of these calls are far more challenging than the 'normal' calls that would typically be experienced in our community.

Regarding salaries, I believe these must be increased to reflect both the expertise of these part- and full-time employees, but also the competitive environment with other area agencies. We pay less and we offer a less hospitable environment for those who live and work their 12 hour shifts than other EMS agencies. I believe that somewhere in the 10% range is appropriate and necessary here.

Finally, I suggest that the time has arrived for the Town to help pay for ambulance replacements. Indeed, Rescue is delaying its intended purchase of a new ambulance and new AEDs next year due to funding constraints. To date, these have been covered entirely by insurance billings, but that is no longer the case. Many of Rescue's calls are for Medicare/Medicaid patients, and as we all know, these agencies do not pay medical providers anywhere near the actual cost of service. We can no longer rely on that funding stream to cover all of Rescue's expenses. I suggest we ask the voters to establish a reserve fund for Rescue apparatus and equipment, just as we did several years ago for Fire apparatus and equipment; in this case, with an annual appropriation of \$25,000. Just as with Fire, this will not cover the entire cost of a new rig, but helps save up toward that cost and replacement cycle.

We depend upon Rescue in our greatest times of need. They serve Shelburne residents and visitors, respond regularly to Fire and Police calls, and also serve as part of a broader mutual aid network along with our other first responder agencies. Other municipalities provide significant financial support to their squads. It's time that Shelburne begin to provide at least some financial support for this mission critical service.

**Buildings and Grounds:** As noted by our Auditors, and as raised in other venues, we as a Town have not been putting away sufficient money into reserve funds for various capital needs. Other than the new library, all of our other buildings and facilities are aging. Indeed, no sooner had we made the final payment on the 20 year note for the Town Office renovation than one of the rooftop HVAC units failed. We'd discussed the roof at a recent meeting. A piece of slate fell off from Historic Town Hall. The Rescue Squad building has serious needs. We should be putting some money aside as a hedge against known needs or those that can reasonably be anticipated for these aging facilities.

Reserve funds are not exciting. They add to the budget, and don't result in new staff or new equipment, but are essential to prudent fiscal planning. Reserve funds are important to have on hand to replace items on a planned schedule, for when infrastructure fails unexpectedly, or as an advance savings account to help cover capital costs and decrease the amounts we need to borrow to finance capital expenses.

I recommend that we ask the voters to establish a facilities reserve fund, with \$50,000 to be allocated to that in this and (hopefully) years to come. Is this sufficient? Perhaps not, but better to start somewhere than to do nothing. And \$50,000 has found its way into other aspects of our budget as an accepted, round number that's large enough to accomplish work deemed important, while not being so large as to crowd out other needs, nor be too big a 'hit' to the budget all at once.

**Beach House:** Parks and Recreation has asked for a bond vote for \$350,000 to replace the old, dilapidated structure at Shelburne Beach. This has been discussed for years. The Selectboard tasked the committee to do some private fund raising toward this project, which they have done; yet no other CBC is asked raise funds for what they believe are their own priority projects.

I think it's clear the case has been made that the existing structure is dysfunctional, and is not worth trying to repair. The building trades would write this off as a 'teardown'. There will never be a "good time" to do this project, and there will always be new capital debt just around the corner. I think it's time to decide this matter once and for all. If we value Shelburne Beach as a key community asset, just as we value open space, well maintained roads, and many other elements that comprise Shelburne's quality of life, then it may be time to make this once in a generation investment in this community asset.

### **Summary, for now:**

I realize that some of these ideas or questions will not be received well by various parties, but part of my job is to ask the hard questions, help keep the big picture in mind as we consider all of these requests made from individual perspectives, and help toward a reality check on these matters. Each request on its own may be perfectly valid from its own independent perspective, but that doesn't mean that all can be accommodated when we put these all together. Please know that in asking all of these questions, it is not in any way questioning the importance or value of the work that would be performed by any of these departments or committees. Everything is important, but not everything can or need be funded at the amounts sought and hoped for. It's no different than all of the actual work needed to run a town – different entities have their own independent beliefs that they feel strongly should be "priority 1" – but not everything can be on the front burner at the same time, unless we are willing to increase dramatically both staffing and taxes.

At the same time, I think it important for us all to remember that a budget is not just figures, and not just about how low to keep the % tax increase. A budget is really an expression of a blend of needs, wishes, and operational priorities. Even further, it's a reflection of the value of all of these services that are provided to our community by an incredibly dedicated team of professionals. At the end of the day, it's about real people doing essential work in service to our community.

**\*Grant applications for HPDRC and Fire/Rescue**

**8:55 P.M.**

HPDRC Chair Fritz Horton seek authorization to apply for a Certified Local Government grant to update the Historic Sites and Structures Survey, which was last updated in 2001. The total grant-funded project is estimated at \$11,000, of which the local share is 40%, or \$4400. Ideally, this work can be completed by June 30, 2022 with or without the grant, while the P&Z budget can accommodate it easily. Otherwise, the local match (presuming the grant is awarded) can be accommodated within the P&Z budget proposed for next year.

I intend to apply again for a federal Assistance to Firefighters Grant to fund the radio communications systems upgrade that has long been discussed and has been slowly in process as funds exist. As you may recall, we've tried several times before and have not yet been successful. That said, many suggest one must try several times with this program, and despite the work effort involved to prepare these complex applications, we know the answer if we don't try. Further, these only require of us a 5% local match, so for example, a request for \$400,000 would require only \$20,000 in local funds. How can we not try again, while this type of project remains a high priority in this federal system?

**\*Resume public hearing on proposed zoning amendments/update**

**9:00 P.M.**

Brief update: as you recall, the Board asked for two types of changes to the Planning Commission's package of zoning proposals: one added clarifications about public notice requirements and that DRB hearings were quasi-judicial proceedings. These were added into the sections on sketch plan and final plan reviews for subdivisions. The other related to required setback for fences along public sidewalks. The PC had proposed 5 foot setbacks; based on Kate Lalley's ideas and concerns, it was suggested that a lesser setback of 3 feet be imposed within our design review and historic districts and along properties with historic buildings.

As required by statute, these were brought back to the PC for review. They agreed with the former, and suggested for the latter that the 3 foot setback for fences along public sidewalks be the standard for all public sidewalks. I think this makes sense. It is administratively efficient, being a single standard, and satisfies the same concerns townwide that Kate had raised in our village districts.

The final language for each is attached. Presuming the Board is satisfied with these last changes, then statute suggests a 14 day waiting period before the final hearing. A motion to accept these final changes and to recess the public hearing until December 21, 2021 will suffice.

**\*Executive Session re: the appointment, employment, or evaluation of a public officer or employee**

**9:10 P.M.**

*Motion: Pursuant to 1 VSA 313, I move to enter executive session to consider the appointment or employment or evaluation of a public officer or employee, and to invite the Town Manager to participate.*

**\*Adjourn**

**9:30 P.M.**



Shelburne Selectboard  
Attn: Kate, Michael, Cate, Luce and Mary  
CC: Lee Krohn

Dear Members of the Shelburne Selectboard,

December 2, 2021

It has come to our attention that you will be discussing the possibility of mandating indoor face mask use for the Town of Shelburne at your next selectboard meeting. While we wholeheartedly applaud you for your efforts in keeping our town safe, we would like to appeal to you to add an exception for business who require full vaccination for all it's patrons and staff if you decide to issue a mask mandate.

Shelburne Athletic Club and CrossFit Shelburne have suffered greatly as a result of COVID-19. As of this writing, we are at about 50% of the members we had prior to March 2020. The only reason we have been able to make it back this far is because of the serious approach we take to keeping our members safe including

- Requiring ALL members, guests, employees, instructors, and trainers to present their vaccination card to prove they are fully vaccinated. NO unvaccinated people are allowed to enter the gym.
- Requiring everyone to carry a rag and bottle of disinfectant to wipe down everything they've touched while at the gym.
- Thoroughly cleaning the entire gym regularly – including the use of an electrostatic gun to disinfect hard to reach surfaces.
- Opening doors and windows as much as possible to create a healthy environment
- Encouraging social distancing

People are finally feeling comfortable coming to the gym without a mask. We fear, at this point, that if mask use were once again mandated, we would lose a lot of our members. It is very difficult to work out while wearing a mask. I'm sure you can understand that after almost two years of trying to stay afloat, this could prove deadly to a company such as ours.

We humbly request that if you mandate indoor mask use, that you include an exception similar to the one that the City of Burlington included in their mandate. According to Seven Days, "A

handful of businesses — restaurants, bars and gyms — are exempt from the (Burlington) rule if they can verify that patrons are fully vaccinated against the coronavirus.” Shelburne Athletic Club can verify this. Please do not require visitors to fitness facilities to wear masks indoors if they are requiring full vaccination.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rayne Herzog', with a large, stylized initial 'R'.

Rayne Herzog  
General Manager

A handwritten signature in black ink, appearing to read 'Ute Talley', written in a cursive style.

Ute Talley  
Operations Manager  
Shelburne Athletic Club  
*An SFH LLC Company*  
802-985-4406

# VLCT MODEL FACE COVERING RULE GUIDANCE

## INTRODUCTION

The VLCT Model Face Covering Rule has been developed as a result of a temporary law (Act 1, “an act relating to temporary municipal rules in response to COVID-19”). The Act allows selectboards to adopt a temporary rule that requires individuals within the town to wear face coverings while indoors at locations that are open to the public. As with other grants of rulemaking authority, the Act is permissive meaning that municipalities can – but are not required by law to – enact face covering rules. When the selectboard votes to adopt such a rule, it initially will remain in effect for 45 days unless repealed before that time. The selectboard must meet during the initial 45-day period to reconsider any rule and vote to affirmatively extend the rule an additional 30 days or rescind the rule or it will expire automatically at the end of the initial 45-day period. Thereafter, the selectboard must meet at a minimum once every 30 days to reconsider the rule, at which meeting the selectboard must vote either to rescind the rule, adopt an amended rule, or extend the rule for an additional 30-day period. If the selectboard does not meet before the initial 45-day period or the subsequent 30-day period(s), the rule automatically expires. The temporary law granting this rulemaking authority will sunset (i.e. be repealed by operation of law) on April 30, 2022, when any local mask rules still in effect will also automatically expire.

## HOW TO CUSTOMIZE THIS MODEL

**This model rule should be customized to suit the particular needs of your municipality, giving careful consideration to each element in light of your community’s resources and expectations. Opportunities for editing this rule are marked with *italicized* text. The selectboard should consult with law enforcement to ensure that the provisions of the rule are relevant and realistic in terms of the resources needed for enforcement.**

## LOCAL RESTRICTIONS

The right to impose local face covering rules are bestowed by state law and may not exceed the limited grant of authority it provides. Any local rule regulating face coverings must be consistent with state law or risk being deemed void by a court of law.

## DEFINITIONS

The law does not define the phrase “location open to the public” and there’s no requirement that any facial covering rule contain a definitions section. Without a definitions section in a facial covering rule, the phrase likely would be interpreted broadly to mean any indoor space or area that is open to the public, but wouldn’t include private residences or private offices/workspaces that are not open to customers or the public. However, the legislative body may choose to further define public locations or other relevant terms such as “face coverings” and how they should be worn in its rule if it helps clarify the rule’s requirements. This model rule was developed to provide the broadest application possible which necessarily meant not further defining any phrases or terms. VLCT MAC’s opinion is that selectboards have the authority to limit the scope of its face covering rule to certain indoor public locations so long as

it does not infringe upon a fundamental right. Selectboards seeking to craft a more targeted rule should contact their town attorney for additional assistance.

## **EXCEPTIONS**

The law has no stated exceptions to whom the rule applies; however, since municipalities have not only those powers and functions specifically authorized by the legislature but also any additional powers that are incidental, subordinate, or necessary to the exercise of such express authority, it is fairly safe to assume that they may also carve out exceptions to any rule they create so long as they are reasonable, do not implicate a suspect class, and are rationally related to the rule's objectives. *Hinesburg Sand & Gravel Co. v. Town of Hinesburg*, 135 Vt. 484 (1977). Examples of exceptions to the requirement to wear facial coverings that the legislative body may choose to add to its rule may include, but are not limited to: children under 2 years; a person with a disability who cannot wear a face covering or cannot safely wear a face covering for reasons related to the disability; a person for whom wearing a face covering would create a risk to workplace health, safety, or job duty as determined by the workplace risk assessment; individuals who are officiating or participating in a religious service or practice where the temporary removal of a face covering is necessary to complete or participate in the religious service or practice; and/or a person while eating or drinking inside any establishment that serves food or beverage. The imposition of exceptions may inadvertently raise constitutional issues. A municipality that carves out exceptions to its face covering rules must ensure that it is not treating secular institutions more favorably than religious ones. In comparing the two, the U.S. Supreme Court has instructed that the government must look to the risk factors associated with the activity, not the reasons why people gather. If temporary exceptions are made for wearing a face covering for a secular activity, then the same exception must be made for its comparable religious counterpart. This model rule allows for the temporary removal to participate in religious services as a precautionary measure to forestall any challenges under the Free Exercise Clause of the First Amendment.

## **RULE ENFORCEMENT**

If your municipality adopts a local face covering rule, the town's first and primary method of enforcement should be educating the public of the rule's requirements and requesting voluntary compliance. Furthermore, there is no requirement that such a rule if adopted must be enforced or even include an enforcement provision. For those rules that do include enforcement provisions, there are two options: civil and criminal enforcement. The vast majority of all municipal ordinances and rules are civilly enforced. Tickets for violation of a town's civil rule are issued by enforcement officers on the State's pre-printed "Uniform Traffic Complaints" which are available in booklets from the Vermont Judicial Bureau, P.O. Box 607, White River Junction, VT 05001-0607. When the issuing officer wishes to enforce a local rule, they will fill out a ticket, provide two copies to the alleged violator, and retain two copies, one of which is sent to the Judicial Bureau. A ticket may be served in person or by mail. Although not required by law, we recommend using certified mail, return receipt requested.

A violator can respond to a ticket/complaint in one of four ways:



- Admit to the offense and pay the waiver fee.
- Not contest the charge and pay the waiver fee.
- Deny the charge and request a hearing.
- Fails to respond within the requisite 20 days, resulting in a default judgment. In such case, the violator is ordered to pay the full amount of the fine (rather than the waiver fee).

If the violator pays the waiver fee, the money collected by the Judicial Bureau is sent to the town, minus an administrative fee which is retained by the Bureau for administrative expenses.

If the violator asks for a hearing, it will be held by a hearing officer assigned by the Judicial Bureau. The Bureau is designed to be used without attorneys. Therefore, if there is a hearing in the Judicial Bureau, the law enforcement officer who issued the ticket must appear to represent the town. The burden of proof is on the town and the violation must be proven by "clear and convincing evidence." If the defendant or town is unhappy with the outcome of the hearing at the Bureau, an appeal may be taken to Superior Court. **Due to the rarity by which municipal rules and ordinances are criminally enforced, this model rule only provides for civil enforcement.**

#### **PENALTIES**

The selectboard does not have to include a penalty provision if it does not intend to enforce this rule. However, one would need to be included if the selectboard sought to impose a fine for a violation. In that event, fines must be set by the selectboard in amounts not to exceed \$800. The selectboard must also set a "waiver fee" for each offense. This is the fee that defendants pay to avoid contesting a municipal ticket in the Judicial Bureau. When setting the penalty and waiver fee amounts, the selectboard must determine what amounts are sufficient to deter violations of the rule. Fines are punitive in nature, and, therefore, the amount of the penalty does not have to correspond to the costs incurred by the town in enforcing the rule. Waiver fees should be set to discourage contested actions. Subsequent violations of the same rule should lead to an increased penalty and waiver fee.

#### **RULE ADOPTION PROCESS**

The adoption of rules is governed by Title 24, Chapter 59. The process starts with the drafting of the rule, and its review by the selectboard. The selectboard then adopts the rule formally, by a majority vote of its members at a duly-warned selectboard meeting ensuring that the action and a copy of the proposed rule are entered in the minutes of the meeting. The rule must be posted in at least five conspicuous places in town and must be published in a newspaper of general circulation on a day not more than 14 days after the selectboard's vote to adopt the rule. The information included in the newspaper must include the following: the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the rule or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text of the rule may be examined. The Act explicitly states that the permissive referendum process that otherwise governs the adoption of

ordinances and rules (i.e. 24 V.S.A. § 1973) does not apply in the adoption or renewal of this particular rule; the rule, therefore, will take effect immediately upon passage.

**This model rule has been developed for illustrative purposes only. VLCT makes no express or implied endorsement or recommendation of any rule, nor does it make any express or implied guarantee of legal enforceability or legal compliance, or that any rule is appropriate for any particular municipality. Each municipality is advised to seek legal counsel to review any proposed rule before adoption and / or use. VLCT PACIF members are advised to seek input from their municipality's loss control specialist regarding insurance considerations and risk avoidance.**

[TOWN/VILLAGE/CITY] OF \_\_\_\_\_, VERMONT

**RULE REQUIRING WEARING FACE COVERINGS INDOORS IN PUBLIC SPACES**

**Section 1. Authority.**

This Rule is adopted by the [Selectboard/Trustees/Council] of the [Town/Village/City] of \_\_\_\_\_ under authority of Act 1, an act relating to temporary municipal rules in response to COVID-19 (2021).

**Section 2. Purpose.**

The purpose of this Rule is to require all individuals to wear face coverings while indoors at locations that are open to the public in order to prevent and mitigate the spread of COVID-19 and protect the public health and safety of the [Town/Village/City] of \_\_\_\_\_.

**Section 3. Requirement to Wear Face Coverings.**

All individuals in the [Town/Village/City] of \_\_\_\_\_ shall wear face coverings while indoors at locations that are open to the public.

**Section 4. Exceptions.**

Face coverings are not required for:

- Any person officiating or participating in a religious service or activity in which the temporary removal of a face covering is necessary to participate in or complete the religious service.
- [insert additional exceptions, if any, e.g., “children under 2 years”; “A person with a disability who cannot wear a face covering or cannot safely wear a face covering for reasons related to the disability”; “A person for whom wearing a face covering would create a risk to workplace health, safety, or job duty as determined by the workplace risk assessment”; “Any person while eating or drinking inside any establishment that serves food or beverage;” etc.]

**Section 5. Other Laws.**

This Rule is in addition to all other ordinances and rules of the [Town/Village/Council] of \_\_\_\_\_ and all applicable laws of the State of Vermont. All ordinances, rules, or parts of ordinances, rules, resolutions, regulations, or other documents inconsistent with the provisions of this Rule are hereby repealed to the extent of such inconsistency.

**Section 6. Severability.**

If any section or provision of this Rule is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Rule.

**Section 7. Effective Period.**

This Rule shall take effect immediately upon the approval by the [*Selectboard/Village/Council*] and shall remain in effect for a period not to exceed 45 days following its initial adoption. The [*Selectboard/Village/Council*] shall meet during the 45-day period in which this initial Rule is in effect and vote either to rescind this Rule or to extend it for an additional 30 days. Thereafter, the [*Selectboard/Village/Council*] shall meet at a minimum once every 30 days to reconsider this Rule, at which meeting the [*Selectboard/Village/Council*] shall vote either to rescind this Rule or to extend it for an additional 30-day period. The filing of a petition under 24 V.S.A. §§ 1972 and 1973, shall not govern the taking effect of this Rule.

**ADOPTED** by the [*Selectboard/Trustees/Council*] of the [*Town/Village/Council*] of \_\_\_\_\_ at its meeting on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SIGNATURES** of [*Selectboard/Village/Council*]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[TOWN/VILLAGE/CITY] OF \_\_\_\_\_, VERMONT

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**Section 2. Purpose.**

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- [insert additional exceptions, if any, e.g., “children under 2 years”; “A person with a disability who cannot wear a face covering or cannot safely wear a face covering for reasons related to the disability”; “A person for whom wearing a face covering would create a risk to workplace health, safety, or job duty as determined by the workplace risk assessment”; “Any person while eating or drinking inside any establishment that serves food or beverage;” etc.]

**Section 5. Enforcement.**

A violation of this Rule shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the [insert name of county] County Superior Court, at the election of the [Selectboard/Trustees/Council].

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

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The [Town/Village/Council] may pursue all appropriate injunctive relief.

**Section 6. Penalties.**

The Enforcement Officer is authorized to recover civil penalties for violations of this Rule as set out below:

1st Offense: \$__ fine.	Waiver amount: \$____
2nd Offense: \$__ fine.	Waiver amount: \$____
3rd and subsequent Offense: \$__ fine.	Waiver amount: \$____

For the above offenses, the Enforcement Officer is authorized to recover a waiver fee, in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.

**Section 7. Other Laws.**

This Rule is in addition to all other ordinances and rules of the [Town/Village/Council] of \_\_\_\_\_ and all applicable laws of the State of Vermont. All ordinances, rules, or parts of ordinances, rules, resolutions, regulations, or other documents inconsistent with the provisions of this Rule are hereby repealed to the extent of such inconsistency.

**Section 8. Severability.**

If any section or provision of this Rule is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Rule.

**Section 9. Effective Period.**

This Rule shall take effect immediately upon the approval by the [Selectboard/Village/Council] and shall remain in effect for a period not to exceed 45 days following its initial adoption. The [Selectboard/Village/Council] shall meet during the 45-day period in which this initial Rule is in effect and vote either to rescind this Rule or to extend it for an additional 30 days. Thereafter, the [Selectboard/Village/Council] shall meet at a minimum once every 30 days to reconsider this Rule, at which meeting the [Selectboard/Village/Council] shall vote either to rescind this Rule or to extend it for an additional 30-day period. The filing of a petition under 24 V.S.A. §§ 1972 and 1973, shall not govern the taking effect of this Rule.

**ADOPTED** by the [Selectboard/Trustees/Council] of the [Town/Village/Council] of \_\_\_\_\_ at its meeting on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SIGNATURES** of [Selectboard/Village/Council]:

\_\_\_\_\_

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## **DRB REVIEW – SUMMARY; ACTUAL BYLAW SECTIONS FOLLOW**

There was clear consensus between the PC and DRB to change the current “three-step” process for subdivisions to a two-step process. This approach retains Sketch Plan Review, and then essentially combines Preliminary and Final Plan Review into a single process. As noted previously, this in no way decreases the depth and thoroughness of review. All substantive standards will still be upheld, and the overall review process can take as few or as many hearings as needed to ensure that those standards are satisfied. However, it will save considerable time, effort, and expense for all parties, and will also help to ensure that any desirable or necessary input from all involved is received earlier in the overall review process. Interestingly,

**Article III: Sketch Plan** would remain “as is” for the most part.

I do suggest eliminating Section 300 (2) which requires applicants to research adjoining landowners and submit addressed envelopes. It is far simpler and more efficient for Town staff to do this work, and then we know that all of the proper parties have been identified and notified. It is understood that not all agree with this approach.

Section 320: Classification would no longer be needed, for there will no longer be distinction between minor and major subdivisions. Interestingly, it appears that minor subdivisions can already proceed from sketch to final plan review, so we’re now just adopting that existing approach for all subdivisions.

Section 330: Review Checklist should be revised to eliminate reference to “conformity with the Town Comprehensive Plan”. Explanation was given above for this in another section.

Section 340: Effect of Sketch Plan Action – delete reference to preliminary plan.

**Article IV: Minor Subdivision Application and Procedure** – delete entire section.

**Article V: Major Subdivision Application and Procedure** – delete entire section.

**Article VI: Application Submission Requirements** – Section 600 is retitled ‘submission requirements’; the first sentence changes “preliminary plans” to ‘subdivision plans’; Section 610 is retitled simply “Final Plat”; and

Incorporate Sections 560: Final Plat Hearing and 570: Decision into appropriate locations, and delete reference to the Planning Commission in Section 560 and anywhere else it might appear (clearly a leftover reference to the ‘old days’, predating formation of the DRB).

**NOTE: PLEASE SEE AS HIGHLIGHTED IN YELLOW, PROPOSED UPDATES FROM THE SELECTBOARD WITH MINOR EDITING BY LK, IN BOTH SKETCH AND FINAL. THESE CLARIFY NOTICE REQUIREMENTS AND THE QUASI-JUDICIAL NATURE OF THESE HEARINGS, BUT DO NOT CHANGE ANY OTHER SUBSTANCE OF THESE SECTIONS. I BELIEVE THESE CAN BE CONSIDERED MINOR CHANGES PURSUANT TO STATUTE (24 VSA 4442(b), AND ARE NOT “SUBSTANTIAL CHANGES IN THE CONCEPT, MEANING, OR EXTENT” OF THESE PROPOSED BYLAWS.**

**NOR DO I BELIEVE THESE REQUIRE ANY AMENDMENT TO THE PRIOR PC REPORT ON THESE PROPOSALS.**



## **ARTICLE III: SKETCH PLAN**

### **300 APPLICATION AND PROCEDURE**

For the purpose of classification and preliminary discussion, any subdivider of land shall, prior to submitting an application for subdivision approval and following a pre-hearing conference with Planning and Zoning Staff, submit to the Development Review Board Administrator at least twenty one (21) days prior to the regularly scheduled meeting of the Development Review Board at which the matter may be heard, a SKETCH PLAN of the proposed subdivision, which shall include the following information:

- (1) Name and address of the owner of record and applicant.
- ~~(2) Submit a list and three (3) addressed envelopes for each current owner of record of all contiguous properties and owners of properties directly across any public right of way.~~
- (3) Names and addresses of all professional advisors, including license seals and numbers.
- (4) Boundaries and area (in area) of: a) all contiguous land belonging to the owner of record; and b) of proposed subdivision.
- (5) Existing and proposed layout of property lines; type and location of existing and proposed restrictions on land, such as covenants and easements.
- (6) Type of, location, and approximate size of existing and proposed streets, utilities, and open space.
- (7) Date, true north arrow and scale (both numerical and graphic).
- (8) Delineation of significant physical features such as water courses, drainage ways, marshes, wooded areas, geologic outcrops which are within or near a subdivision.
- (9) A location map showing the relation of proposed subdivision to adjacent property and surrounding area.
- (10) Sketch plan map to be on a topographic map at a scale not to exceed 1" - 200'.
- (11) A written statement of proposed development plans, general timing of development and construction and proposed covenants or restrictions.
- (12) If the owner of record is not the applicant, a letter from the owner of record authorizing the applicant to apply for subdivision approval must on submitted.
- (13) Copy of a statement certifying that, consistent with Act 146 of the Acts and Resolves of the 2009-2010 Legislative Session and 24 V.S.A. § 4463(d), the applicant has: a) been informed they are responsible for identifying and obtaining state permits before beginning

construction on a project and (b) discussed with the Regional Permit Specialist the preparation of a Project Review Sheet, which the permit specialist completes to provide preliminary jurisdiction for all state permits.

### 310 ATTENDANCE

The subdivider, or his/her duly authorized representative, shall attend the ~~meeting of the~~ Development Review Board hearing on the sketch plan to ~~discuss~~ provide evidence regarding the requirements of these regulations for streets, improvements, Stormwater Management, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and all other pertinent information.

Notice of the initial public hearing for final plan review shall be sent to all parties identified in Section 300(2) of these regulations. NOTE: need to change to pursuant to State statute. as required by Title 24, Chapter 117, the Vermont Municipal and Regional Planning and Development Act, and shall specify the quasi-judicial nature of this proceeding where interested parties shall be permitted to provide evidence under oath supporting the ideas, issues, concerns, or suggestions germane to any issue under review.

### 320 CLASSIFICATION

~~The Development Review Board shall classify the subdivision proposal as either a MAJOR SUBDIVISION or a MINOR SUBDIVISION, using the definitions given in Article II.~~

### 330 REVIEW CHECKLIST

The Development Review Board shall review the sketch plan taking into consideration the requirements of these subdivision regulations, the zoning ordinance, and other bylaws then in effect. ~~The Development Review Board shall also consider the Sketch Plan's conformity with the Town Comprehensive Plan.~~

The Development Review Board shall, where it deems necessary, make general or specific recommendations and/or suggestions to be incorporated by the applicant in his/her subsequent submissions. Such written recommendations shall be sent to the applicant after the expiration of the meeting or any continuation thereof. ~~The Development Review Board may also require, where necessary for the protection of the public health, safety and welfare, that a Minor Subdivision comply with all or some of the requirements specified in these regulations regarding Major Subdivisions.~~

### 340 EFFECT OF SKETCH PLAN ACTION

Approval of a sketch plan shall not constitute approval of the subdivision plat and is merely authorization for the applicant to file a ~~preliminary plan~~ or final plan application. Should the Development Review Board disapprove a sketch plan, it shall notify the applicant in writing of the reason for such disapproval.

**ARTICLE IIIA: BOUNDARY LINE ADJUSTMENTS – SEE SEPARATE PAGE FOR NEW LANGUAGE FOR BOUNDARY LINE ADJUSTMENTS AND LOT MERGERS**  
**ARTICLE IV: MINOR SUBDIVISION APPLICATION AND PROCEDURE**

400 — APPLICATION

~~Within six (6) months of receiving authority to proceed for a Minor Subdivision, the subdivider shall submit a complete application for final approval of a subdivision plat to the Development Review Board Administrator. If the application is not made within six (6) months, then a new Sketch Plan must first be submitted for review in accordance with Article III of these regulations. The application shall contain those items set forth in section 610 of these regulations and shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Development Review Board. The aforementioned requirement notwithstanding, the six (6) month deadline for filing the Final application may be extended by the Development Review Board following discussion at a regularly scheduled meeting upon finding that good cause for such an extension exists.~~

410 — PUBLIC HEARING

~~A public hearing shall be initiated by the Development Review Board within forty five (45) days after the time of submission to the Development Review Board Administrator of an application for approval of a minor subdivision. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act and notice of the meeting shall be sent to adjoining landowners as identified in section 300(2) of these regulations and those required to receive notice under the provisions of the Act.~~

420 — DECISION

~~The Development Review Board shall, within forty five (45) days after the completion of the public hearing or any continuation thereof, approve, modify and approve or disapprove such plat. Failure to so act within forty five days shall be deemed approval according to the provisions established in 24 V.S.A. § 4464.~~

**ARTICLE V: MAJOR SUBDIVISION APPLICATION AND PROCEDURE**

500 — PRELIMINARY PLAN APPLICATION

~~Within six (6) months of receiving authority to proceed for a Major Subdivision, the subdivider shall submit a complete application for approval of a Preliminary Plan. The application shall contain those items set forth in Article VI of these regulations and shall conform to the layout shown on the sketch plan plus any recommendations made by the Development Review Board. The aforementioned requirement notwithstanding, the six (6) month deadline for filing the Preliminary Plan application may be extended by the Development Review Board following discussion at a regularly scheduled meeting upon finding that good cause for such an extension exists.~~

#### 510 PUBLIC HEARING

~~A public hearing on the study plan shall be held by the Commission after the time of submission to the Development Review Board Administrator of the Preliminary Plan Application. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act and notice of the meeting shall be sent to adjoining landowners as identified in Section 300 (2) of these regulations and those required to receive notice under the provisions of the Act.~~

#### 520 ACTION ON PRELIMINARY PLAN

~~Within forty five (45) days of the completion of the public hearing or any continuation thereof, the Development Review Board shall approve, modify and approve or disapprove said Preliminary Plan and the grounds for any modifications required or the grounds of disapproval shall be set forth in a written notice of decision. Failure of the Development Review Board to act within said forty five (45) day period shall constitute an approval of the Preliminary Plan according to the provisions established in 24 V.S.A. § 4464. Copies of the notice of decision of the Development Review Board shall be sent to the applicant and any interested parties appearing at the public hearing.~~

#### 530 PHASING

~~At the time the Development Review Board grants Preliminary Plan approval it may require the plat to be divided into two or more phases and may impose such conditions upon the filing of application for final plat approval for each phase as it deems necessary to assure the orderly development of the plat.~~

#### 540 EFFECT OF PRELIMINARY PLAN APPROVAL

~~Approval of the Preliminary Plan shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Development Review Board may require additional changes as a result of further study. The approval of a Preliminary Plan shall be effective for a period of one year. Any plat not receiving the final approval prior to the expiration of one year from Preliminary Plan approval shall be null and void, and the subdivider shall be required to resubmit a new plat for Preliminary Plan approval subject to all new zoning and subdivision regulations.~~

#### 550 FINAL PLAT APPLICATION

~~Within six (6) months of Preliminary Plan approval, the subdivider shall submit a complete application for approval of a final subdivision plat. The application must contain those items set forth in Section 610 of these regulations and shall conform to the layout shown on the Preliminary Plan plus any recommendations made by the Development Review Board. The aforementioned requirement notwithstanding, the six (6) month deadline for filing the Final application may be extended by the Development Review Board following discussion at a regularly scheduled meeting upon finding that good cause for such an extension exists.~~

560 — FINAL PLAT HEARING

~~A public hearing shall be held by the Development Review Board after the time of submission to the Planning Commission of the complete final subdivision plat application. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act and notice of the meeting shall be sent to adjoining landowners as identified in Section 300 (2) of these regulations and those required to receive notice under the provisions of the Act.~~

570 — DECISION

~~The Commission shall, within forty five (45) days after the public hearing, approve, modify and approve or disapprove such plat. Failure to so act within forty five (45) days shall be deemed approval according to the provisions established in 24 V.S.A. § 4464.~~

**ARTICLE VI: APPLICATION FINAL PLAT SUBMISSION REQUIREMENTS**

*NOTE: This incorporates all prior requirements from preliminary and final into a single list.*

The subdivider, or his/her duly authorized representative, shall attend the ~~meeting of the~~ Development Review Board hearing on the final plan to ~~discuss~~ provide evidence regarding the requirements of these regulations for streets, improvements, Stormwater Management, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and all other pertinent information.

Notice of the initial public hearing for final plan review shall be sent to all parties identified in Section 300(2) of these regulations. NOTE: need to change to pursuant to State statute, as required by Title 24, Chapter 117, the Vermont Municipal and Regional Planning and Development Act, and shall specify the quasi-judicial nature of this proceeding where interested parties shall be permitted to provide evidence under oath supporting the ideas, issues, concerns, or suggestions germane to any issue under review.

600 — PRELIMINARY PLAN — MAJOR SUBDIVISION

The ~~Preliminary Final Plat~~ Subdivision Plans shall consist of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of not more than one hundred (100) feet to the inch showing or accompanied by the following information:

- (1) Proposed subdivision name or identifying title, the name of the Town, the name and address of the record owner and subdivider; the name, license number, and seal of the registered land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and scale, both graphic and numerical and north arrow.
- (2) Name and address of owner of record, subdivider, and land surveyor of the Plat.

- (3) Names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
- (4) Total number of acres within the proposed subdivision, location of proposed lot lines, number of acres within each lot, structure, water courses, wooded areas, geologic outcrops, and other essential existing physical features, including any endangered species, necessary wildlife habitat, and rare and irreplaceable natural areas identified pursuant to Section 810 of this Bylaw.
- (5) The location and size of existing sewer and water mains (on the property or serving the property) with letters from the Shelburne Water Department Superintendent, and the Shelburne Wastewater Superintendent stating that:
  - adequate capacity exists for the proposed subdivision; or,
  - if improvements and modifications are needed to accommodate the proposed subdivision, the subdivider's proposal to address these improvements and modifications is acceptable.
- (6) The location and size of any existing culverts, drains, and stormwater treatment practices on the property or serving the property (see item #25). The application shall also include a stormwater management plan, including provisions for minimizing and treating stormwater during construction and post-construction stormwater management systems. Any erosion prevention and sediment control and post construction stormwater management measures, treatment practices, and/or infrastructure shall meet the regulations and standards of the Vermont Department of Environmental Conservation, and any applicable Town regulations and standards.
- (7) The provisions of the Shelburne Zoning Regulations or other Town Regulations applicable to the area to be subdivided and any zoning district boundaries affecting the tract.
- (8) Location, names and widths of existing and proposed streets, private ways, sidewalks, curb cuts, paths, easements, parks and other public or privately maintained open spaces, as well as similar facts regarding adjacent property (also see item #25).
- (9) Contour lines at intervals of five (5) feet of existing grades and of proposed grades where change of existing ground elevation will be five feet or more.
- (10) Complete survey of subdivision tract by a licensed land surveyor.
- (11) Typical cross sections of the proposed grading, roadways and sidewalks.
- (12) Date, true north point and numerical and graphic scale.
- (13) Street names and lines, pedestrian ways, lots, reservations, easements and area(s) to be dedicated to public use.
- (14) The length of all straight lines, the deflection angles, the radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.

- (15) By proper designation on such Plat, all public open space for which offers of dedication are made by the subdivider and those spaces for which title is reserved by him/her.
- (16) Lots within the subdivision numbered in numerical order within blocks and blocks lettered in alphabetical order.
- (17) Permanent reference monuments shown thus " " and lot corner markers shown thus " O ".
- (18) Monuments which shall be set at all corners and angle points of the boundaries of the subdivision and monuments required by Town of Shelburne Public Works Specifications for new roads, at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town.
- (19) The location of all the improvements referred to in Section VIII and in addition thereto the location of all utility poles, sewage disposal system, water supply systems, and erosion prevention and sediment control plans, stormwater treatment plans, rough grading and other devices and methods of draining the area affecting the subdivision.
- (20) Construction drawings (paper copies and digital PDF) of all required improvements listed in Section VIII.
- (21) Details of proposed connection with existing water supply or alternative means of providing water supply to the proposed subdivision. (Also see item #25).
- (22) Details of proposed connection with the existing sewage disposal system or adequate provision for on-site disposal of septic wastes. (Also see item #25).
- (23) If on-site sewage disposal system is proposed, then the location and results of tests to ascertain subsurface soil, rock, and groundwater conditions. All test and design criteria to be in accord with applicable State regulations or standards.
- (24) Provisions for collecting and discharging stormwater in the form of a stormwater management plan. The stormwater management plan must identify the construction disturbance area and demonstrate that stormwater runoff is minimized through the use of natural drainage systems and on-site infiltration and treatment techniques. The plan shall also demonstrate that soils best suited for infiltration are retained and that natural areas consisting of tree canopy and other native vegetation are preserved, preferably in contiguous blocks or linear corridors where feasible, for protection of the best stormwater management features identified in the site assessment.
- (25) Designs of any bridges and culverts which may be required.
- (26) The location of markers adequate to enable the Development Review Board to readily locate and appraise the basic layout in the field. Unless an existing street intersection is shown, the

distance along a street from one corner of the property to the nearest existing street intersection shall be shown.

- (27) All parcels of land proposed to be dedicated or reserved for public use and the conditions of such dedication or reservation.
- (28) Location of all natural features or site elements to be preserved.
- (29) List of waivers the subdivider desires from the requirements of these regulations.
- (30) A vicinity map drawn at scale of not over four hundred (400) feet to the inch to show the relationship of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision or any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the vicinity map is at least five hundred (500) feet from any boundary of the proposed subdivision. Within such area the vicinity map shall show:
  - (a) All existing subdivisions and approximate tract lines of parcels together with the names of the record owners of all adjacent parcels of land; namely, those directly abutting or directly across any street adjoining the subdivision.
  - (b) Locations, widths, and names of existing, filed, or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designed in Paragraph (a) above.
  - (c) An outline of the platted area together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plat submitted covers only part of the subdivider's entire holding.
- (31) A copy of any proposed covenants and/or deed restrictions which are intended to cover all or part of the subdivision.
- (32) A prospectus describing the management organization or homeowner's association if one is proposed. Included shall be a disclosure statement which will be given to all prospective purchasers detailing responsibility for services, such as maintenance and plowing of roadways within the development. **NOTE: WE DO NOT REGULATE PRIVATE RULES OR HOMEOWNERS' ASSOCIATIONS. WHY DO WE EVEN WANT TO KNOW THIS? IT IMPLIES THAT WE DO HAVE JURISDICTION.**
- (33) Construction drawings on paper and in digital PDF format of all proposed public improvements.
- (34) Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
- (35) Proposals and/or offers concerning the manner in which open space, including park and recreational lands and school site areas, are to be dedicated, reserved, and/or maintained or



payments proposed in lieu thereof.

- (36) Documentation from the following Town departments or agencies that the subdivider's plans have been reviewed and are deemed acceptable or would be deemed acceptable upon adherence to clearly identified proposed conditions of approval:
- (a) Police department;
  - (b) Fire department;
  - (c) Highway department;
  - (d) Wastewater department;
  - (e) Water department;
  - (f) Town Manager's office;
  - (g) Elementary and High School;
  - (h) Recreation department;
  - (i) Natural Resources and Conservation Committee.
- (37) Landscaping Plan prepared by a landscape architect, master gardener, nursery professional, arborist, professional landscape designer, or other qualified landscape professional.
- (38) Before final approval of a subdivision plat, or with the consent of the Town Manager as evidenced by letter presented at the Final Plan public hearing, the subdivider shall furnish the Town with an appropriate performance bond to secure the completion of all public improvements and their maintenance for a period of two (2) years, with a certificate from the Board of Selectmen, or its designee, that it is satisfied either with the bonding or surety company, or with security furnished by the subdivider. A certificate or letter from the Town attorney shall also be filed with the Development Review Board and Town Manager indicating that he or she is satisfied with the form and substance of the performance bond.
- (39) The final plan application for a minor or major subdivision shall be accompanied by a Certificate of Title showing the ownership of all property and easements to be dedicated or acquired by the Town, or reserved, and said Certificate of Title shall be approved by the Town attorney. Copies of all proposed Offers of Dedication, deeds, easements to the Town shall also accompany the final application, and be approved by the Town attorney.
- (12) A final application for a ~~major or minor~~ subdivision shall include all legal documentation necessary, in a complete and final form.

The final plat for a major and minor subdivision shall conform in all respects to the preliminary plan and sketch plan respectively as approved by the Development Review Board. The subdivision plat shall show:

- (1) ~~Proposed subdivision name or identifying title, the name of the Town, the name and address of the record owner and subdivider; the name, license number, and seal of the registered land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and scale, both graphic and numerical and north arrow.~~
- (2) ~~Street names and lines, pedestrian ways, lots, reservations, easements and area(s) to be dedicated to public use.~~
- (3) ~~The length of all straight lines, the deflection angles, the radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.~~
- (4) ~~By proper designation on such Plat, all public open space for which offers of dedication are made by the subdivider and those spaces for which title is reserved by him/her.~~
- (5) ~~Lots within the subdivision numbered in numerical order within blocks and blocks lettered in alphabetical order.~~
- (6) ~~Permanent reference monuments shown thus " " and lot corner markers shown thus " O "~~
- (7) ~~Monuments which shall be set at all corners and angle points of the boundaries of the subdivision and monuments required by Town of Shelburne Public Works Specifications for new roads, at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town.~~
- (8) ~~The location of all the improvements referred to in Section VIII and in addition thereto the location of all utility poles, sewage disposal system, water supply systems, and erosion prevention and sediment control plans, stormwater treatment plans, rough grading and other devices and methods of draining the area affecting the subdivision.~~
- (9) ~~Construction drawings (paper copies and digital PDF) of all required improvements listed in Section VIII.~~
- (10) ~~Before final approval of a subdivision plat, or with the consent of the Town Manager as evidenced by letter presented at the Final Plan public hearing, the subdivider shall furnish the Town with an appropriate performance bond to secure the completion of all public improvements and their maintenance for a period of two (2) years, with a certificate from the Board of Selectmen, or its designee, that it is satisfied either with the bonding or surety company, or with security furnished by the subdivider. A~~

~~certificate or letter from the Town attorney shall also be filed with the Development Review Board and Town Manager indicating that he or she is satisfied with the form and substance of the performance bond.~~

- ~~(11) The final plan application for a minor or major subdivision shall be accompanied by a Certificate of Title showing the ownership of all property and easements to be dedicated or acquired by the Town, or reserved, and said Certificate of Title shall be approved by the  
Town attorney. Copies of all proposed Offers of Dedication, deeds, easements to the Town shall also accompany the final application, and be approved by the Town attorney.~~
- ~~(12) A final application for a major or minor subdivision shall include all legal documentation necessary, in a complete and final form.~~
- ~~(14) A final application for a minor subdivision for which no preliminary plan was submitted shall include the documentation required in section 600 (28).~~

#### 610 FINAL PLAT - MAJOR AND MINOR SUBDIVISIONS

The Final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: It shall be on mylar clearly and legibly drawn, and the sheets shall be a standard size of 18" by 24" suitable for recording under Vermont Statutes.

Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. The subdivision plat shall carry the following endorsement on the copy to be filed with the Town Clerk:

Approved by Resolution of the Development Review Board of the Town of Shelburne, Vermont, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
subject to the requirements and conditions of said resolution. Signed this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by, Chairperson.

## Delete “fences” from the definition of Building or Structure (Section 2110.18)

Section 2110.18: Building or Structure - These terms are used interchangeably and mean any construction, erection, assemblage or other combination of materials upon the land for occupancy or use, including without limitation, buildings, mobile homes, walls, fences, signs, antennas, swimming pools, tennis courts, driveways and utility sheds.

## Create a new section under Article XIX, General Regulations, to follow Section 1980.10, Retaining Walls

### New Section 1980.11 Fences

Fences may be installed up to and upon a property boundary. While it may be advisable to install a fence slightly within one’s property to allow for maintenance on both sides, no other setback requirement applies, unless:

Otherwise prescribed in an underlying subdivision or PUD permit.

Note that fences must be placed at least **three** feet back from a public sidewalk.

Fences shall be installed so that the smooth or finished side faces out toward adjoining properties.

Fences shall not:

Interfere with sight distances at intersections with streets, driveways, or other passageways;

Interfere with nor block natural drainage flows or surface water;

Interfere with wildlife connectivity as found on the Vermont Agency of Natural

Resources map <[Habitat Blocks and Wildlife Corridors | Habitat Blocks and Wildlife Corridors | Vermont Open Geodata Portal Your source for geospatial data](#)> or other verified source;

Be constructed of corrugated materials, barbed/razor/ribbon wire (although barbed wire is permitted for agricultural purposes), broken glass, or other similar materials. Chain link fences shall have closed loops or other protective material at the top.

Fences located within the Village Design Review Overlay District (or other design review overlay district as may exist in the future) require review and approval of the Historic Preservation and Design Review Commission. Otherwise, fences up to four feet tall that meet the above criteria are exempt from permitting, unless 800 feet in length or longer, in which case an administrative zoning permit is required. Fences between four and eight feet tall of any length require an administrative zoning permit; fences more than eight feet tall and of any length require DRB review and approval (although fences up to ten feet tall and up to 800 feet in length to enclose tennis, basketball, or other similar facilities may be approved administratively; otherwise, DRB review and approval is required).

**Then: Add a new section 1535.7: Fences** to the list of subsequent administrative approvals for minor projects that are approved by the HPDRC.