



Plan and Bylaw Adoption Tools

May, 2005

24 V.S.A Chapter 117
§§ 4385 and 4441-4447

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CERTIFICATE OF MUNICIPAL PLAN

__ADOPTION __AMENDMENT __REPEAL

I, _____, Clerk of the Town/Village/City of _____, in _____ County, State of Vermont, do hereby certify pursuant to 24 VSA, §§4384, 4385, and 4444, that the following actions were taken by the designated parties with the respect to the adoption/amendment/repeal of the proposed municipal plan for the Town of _____, of which the attached is a true copy.

Signed: _____
Date: _____

Attach herewith all documentation, tear sheets, notices, etc. resulting from and confirming this adoption process.

I. PLANNING COMMISSION HEARING(S), SUBMITTALS

A) Transmittal of Proposed Plan/Amendment/Repeal

Deadline for action: 30 days prior to first hearing date (a.k.a. 30 day notice)

Mail by **certified mail, return receipt**, copies of each of the following:

- proposed plan/amendment/repeal; hearing notice;
 report; and solicitation for comments

To:

- PC Chairs of adjoining municipalities (or municipal clerk if no planning commission exists)

- Executive Director, (Name and address of Regional Planning Commission)
 DHCA, National Life Building, Drawer 20, Montpelier, VT 05620-0501
 Municipal Clerk, (multiple plan copies with a request to post notice and make copies available to general public)
 Interested Persons: _____

Statutory reference(s): (§4384(e))

Mailing Date: _____ **Initialed:** _____

On file: copy of proposed plan/amendment/repeal, hearing notice and report as mailed

B) Hearing Notice

Deadline for action: 15 days prior to first hearing date

The planning commission shall hold at least one public hearing on the proposed plan/amendment/repeal, following 15 days notice. All hearings must be warned in accordance with the notice requirements under §§4384 and 4444. *Note: In calculating the warning/notice period, the first day shall not be counted, and the final day shall be counted.*

The planning commission has two options under §4444:

1) Publication in a general newspaper designated by the legislative body and posting in **three** or more places a notice of hearing(s), including date, time, place and purpose of the hearing, with either the full text of the material, **or** a summary, including a statement of purpose, geographic areas affected, table of contents/listing of section headings, and a description of the place within the municipality where the full text and/or maps may be examined,

Or 2) Publication in a general newspaper designated by the legislative body and posting in **three** or more places a notice of the date, time, place, and purpose of the hearing; and mailing or delivery of the hearing notice with copies of the full text, to each voter on the voter checklist, and to each landowner on the grand list.

Statutory reference(s): §4444

Posting Dates: Municipality (3 locations) (/ /) Version Warned (/ /)

Municipality (3 locations) (/ /)

Municipal Clerk (/ /)

Newspaper: _____ Publication Date (/ /)

AND, either:

1) post a summary: a statement of purpose; geographic areas affected; table of contents/listing of section headings; and a description where the full text may be examined;

OR 2) mail/deliver to each voter on the voter checklist and each landowner on the grand list: the hearing notice; a copy of the full text **Initialed:** _____

On file: copies of posted and published notices, dated copy of proposed plan/amendment/repeal as warned, copies of voter checklist and grand list, if applicable

C) Planning Commission Hearing

Deadline for action: 15 days after notice publication

As noted, the planning commission must hold at least one public hearing, following public notice, on the proposed plan/amendment/repeal as warned. *Note: No changes may be made between the time the public notice is posted/published and the public hearing.*

Statutory reference(s): §4384 (d)

Hearing Date/Time: (/ /)

Location: _____

On file: board minutes; comments submitted

D) Revisions resulting from the planning commission hearing.

The planning commission may make any changes, as a result of the public hearing, prior to submitting the proposed document to the legislative body.

Statutory reference(s): §4384 (f)

E) Submittal of proposed plan/amendment/repeal to the legislative body and clerk.

Deadline for action: None, however this should be done promptly following the final planning commission hearing, particularly if the plan/amendment/petition is supported by petition.

The planning commission shall submit the proposed plan/amendment/repeal with any revisions (unless the proposal is petitioned) following public hearing, and written reports, to the legislative

body of the municipality. Simultaneously, the planning commission shall file with the clerk of the municipality a copy of the proposed plan/amendment/repeal and written reports as submitted to the legislative body, for public review.

Statutory reference(s): §4384 (f)

Filing Date: (___ / ___ / ___)

Initialed: _____

On file: dated copy of proposed plan/amendment/repeal with revisions, reports as submitted by the planning commission to the legislative body and clerk following final planning commission hearing

II. LEGISLATIVE HEARING(S)

A) Changes to proposed plan/amendment/repeal

Deadline for action: 15 days prior to final hearing date

The legislative body may change the proposed plan/amendment/repeal, but shall not do so less than 15 days prior to the final public hearing. If substantial changes are made in the concept, meaning, or extent of the proposed plan/amendment/repeal, it shall warn a new public hearing(s). If any part of the proposal is changed, the change shall be filed at least 15 days prior to the public hearing with the municipal clerk and with the planning commission. The planning commission may submit a report thereon to the legislative body prior to or at the public hearing.

Statutory reference(s): §4385 (b)

Filing Date: (___ / ___ / ___)

Initialed: _____

One file: copy of proposed changes as warned, and filed with clerk and planning commission. Planning commission report if submitted prior to hearing

B) Hearing Notice

Deadline for action: 15 days prior to the first hearing date

Not less than 30 nor more than 120 days after a proposed plan or amendment is submitted to the legislative body of a municipality under §4384 of this title, the legislative body of a municipality with a population of 2,500 persons or less, shall hold the first of one or more public hearings, after public notice. A municipality with a population of more than 2,500 persons shall hold two or more such hearings. All hearings must be warned in accordance with the notice requirements under §4444. *Note: In calculating the warning/notice period, the first day shall not be counted, and the final day shall be counted.*

The legislative body has two options under §4444

- 1) Publication in a general newspaper designated by the legislative body and posting in **three** or more places a notice of hearing(s), including date, time, place and purpose of the hearing, with either the full text of the material, **or** a summary, including a statement of purpose, geographic areas affected, table of contents/listing of section headings, and a description of the place within the municipality where the full text and/or maps may be examined;

Or 2) Publication in a general newspaper designated by the legislative body and posting in **three** or more places a notice of the date, time, place, and purpose of the hearing; and mailing or delivery of the hearing notice with copies of the full text, to each voter on the voter checklist, and to each landowner on the grand list.

Statutory reference(s): §4444

Posting Dates: Municipality (3 locations) (/ /) Version Warned (/ /)

Municipality (3 locations) (/ /)

Municipal Clerk (/ /)

Newspaper: _____ Publication Date(/ /)

AND, either:

2) post a summary: a statement of purpose; geographic areas affected; table of contents/listing of section headings; and a description where the full text may be examined;

OR 2) mail/deliver to each voter on the voter checklist and each landowner on the grand list: the hearing notice; a copy of the full text **Initialed:** _____

On file: copies of posted and published notices, dates copy of proposed plan/amendment/repeal with planning commission report, as warned, copies of vote checklist and grand list, if applicable

C) Legislative Body Hearing(s)

Deadline for action: *not less than 30 nor more than 120 days following submission by the planning commission (for the first hearing) as warned*

As noted, not less than 30 nor more than 120 days after a proposed plan or amendment is submitted to the legislative body of a municipality under § 4384 of this title, the legislative body of a municipality with a population of 2,500 persons or less, shall hold the first of one or more public hearings, after public notice. A municipality with a population of more than 2,500 persons shall hold two or more such hearings. Also as noted above, if the legislative body makes any substantial changes, it shall warn a new public hearing or hearings and file the proposed changes with the clerk and planning commission at least 15 days prior to the final public hearing as warned.

Statutory reference(s): §4385 (a)

Hearing Date/Time: (/ /)

Location: _____

Initialed: _____

On file: record of proceedings, attendance, planning commission report as submitted

III. ADOPTION OF MUNICIPAL PLAN/AMENDMENT/REPEAL

A) Legislative Body

Deadline for action: *within one year of date of final planning commission hearing*

Plans, amendments, and/or repeals, shall be adopted or rejected by a majority of the member of the legislative body at a meeting which is held after final public hearing, and shall be effective immediately.

Statutory reference(s): §4385 (c)

Date of Meeting/Vote: (/ /)

Action: Adopted Rejected

Initialed: _____

On file: meeting minutes, record of vote, dated copy of proposed plan/amendment/pepeal as accepted or rejected by legislative body

B) Australian Ballot (*rural municipality or municipality with a population of more than 2,500 but less than 5,000, which has elected to require Australian Ballot vote*)

Deadline for action: *within one year of date of final planning commission hearing*

A proposed plan, amendment or repeal for a municipality which has elected (in accordance with 24 V.S.A. §4385 (c)) to do so, shall be adopted or rejected by the vote of the municipality by Australian Ballot (17 VSA, §2641) at the next regular or special meeting duly warned and held after final public hearing. The adoption or rejection shall be effective immediately. Since no discussion of the question may take place during the voting period, a public informational meeting is required prior to the vote.

- 1) Public Information Hearing A warned public informational hearing is required for any question to be voted on by Australian Ballot. This hearing may be held concurrently with the legislative body’s final public hearing, provided that the notice requirements for each are followed. Notice consists of posting the meeting date, time, place and purpose in at least three locations in the municipality, including the municipal clerk’s office.

Statutory Reference(s): Title 24 V.S.A., §4385 (c)
Title 17 VSA, §§2641 and 2642

Deadlines for action: Posting: not less than 30 nor more than 40 days prior to vote
Publication, newspaper: at least 5 days prior to vote
Publication, report: at least 10 days prior to vote
Hearing: prior to designated voting period

Posting Dates: Municipality (2 locations) (___ / ___ / ___) Version Warned (___ / ___ / ___)

Hearing Date/Time: (___ / ___ / ___) **Location:** _____

Initialed: _____

On file: copies of notice, record of hearing proceedings, attendance

- 2) Vote by Australian Ballot Questions voted on by Australian Ballot must be warned according to 17 VSA, §2641. The warning must be posted in three locations, including the municipal clerk’s office, and published in a newspaper designated by the legislative body; or if the vote is to take place at a regular meeting, it must be published and distributed as a warned article in the municipal report.

Statutory reference(s): Title 17 V.S.A., §§2641 and 2642
Deadlines for action: Posting: not less than 30 nor more than 40 days prior to vote
Publication, newspaper: at least 5 days prior to vote
Publication, report: at least 10 days prior to vote
Vote: within one year of date of final planning commission hearing, unless petitioned

Posting Dates: Municipality (2 locations) (___ / ___ / ___)
Newspaper: _____ Publication Date (___ / ___ / ___)

Meeting/Vote Date: (___ / ___ / ___)

Action: Adopted Rejected

Initialed: _____

On file: copy of notice as posted, published, meeting minutes, record of vote; dated copy of proposed plan/amendment/repeal as accepted or rejected by voters

C) Adopted Plans

Deadline for action: 30 days following adoption

Plans and amendments shall be effective upon adoption, and shall be provided to the regional planning commission and to the commissioner of Housing and Community Affairs.

Send a copy of:

adopted plan or repeal

To: Executive Director, (Name and address of Regional Planning Commission)

DHCA, National Life Building, Drawer 20, Montpelier, VT 05620-0501

Statutory reference(s): 4385 (c)

Mailing Date: (___ / ___ / ___)

Initialed: _____

On file: copy and original of adopted plan; this form and all supporting documentation

IV. REGIONAL APPROVAL AND CONFIRMATION

Initialed: _____

A) If a municipality wishes its plan or plan amendment to be eligible for approval under the provisions of §4350 of this title, it shall request approval. The request for approval may be before or after adoption of the plan by the municipality, at the option of the municipality.

Any such requests should be in writing and accompanied by a copy of the adopted or draft plan. The RPC will carry out and conduct all related and necessary reviews, hearings and processes. *This process requires up to 60 days from notification to complete; to meet a shorter timeline or specific deadlines, the RPC will require contact and coordination prior to the planning commission hearing notice.*

Statutory reference(s): §4385(c)

Submitted to RPC: No Yes Date of submission to RPC: (___ / ___ / ___)

On file at the RPC: approval and confirmation forms, hearing minutes, staff review

Planning Commission Reporting Form for Municipal Plan Amendments

This report is in accordance with 24 V.S.A. §4384(c) which states:

*“When considering an amendment to a plan, the planning commission shall prepare a written report on the proposal. **The report shall address the extent to which the plan, as amended, is consistent with the goals established in §4302 of this title.**”*

If the proposal would alter the designation of any land area, the report should cover the following points:

1. *The probable impact on the surrounding area, including the effect of any resulting increase in traffic, and the probable impact on the overall pattern of land use.*

2. *The long-term cost or benefit to the municipality, based consideration of the probable impact on:*
 - (A) *the municipal tax base; and*

 - (B) *the need for public facilities;*

3. *The amount of vacant land which is:*
 - (A) *already subject to the proposed new designation; and*

 - (B) *actually available for that purpose, and the need for additional land for that purpose.*

4. *The suitability of the area in question for the proposed purpose, after consideration of:*
 - (A) *appropriate alternative locations;*
 - (B) *alternative uses for the area under consideration; and*
 - (C) *the probable impact of the proposed change on other areas similarly designated*

5. *The appropriateness of the size and boundaries of the area proposed for change, with respect to the area required for the proposed use, land capability and existing development in the area.”*

Please Note:

- ❖ The planning commission must hold at least one public hearing within the municipality after public notice on any proposed plan or amendment.
- ❖ At least **30** days prior to the first hearing, a copy of the proposed plan or amendment and the written report must be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:
 1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;
 2. the executive director of the regional planning commission of the area in which the municipality is located;
 3. the Department of Housing and Community Affairs within the Agency of Commerce and Community Development; and
 4. business, conservation, low income advocacy and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.
- ❖ The planning commission may make revisions to the proposed plan or amendment and to any written report, and must thereafter submit the proposed plan or amendment and any written report to the legislative body of the municipality.
- ❖ If the legislative body changes any part of the proposed plan, the planning commission must submit to the legislative body, at or prior to the public hearing, a report that analyzes the extent to which the changed proposal, when taken together with the rest of the plan, is consistent with the legislative goals established in 24 V.S.A. §4302.
- ❖ Simultaneously with the submission, the planning commission must file with the clerk of the municipality a copy of the proposed plan or amendment, and any written report, for public review.

Bylaw Preparation & Adoption Checklist [Proposed Bylaws, Bylaw Amendments, Repeals]

Planning Commission

Bylaw Preparation

Any bylaw for a municipality shall be prepared by or at the direction of the Planning Commission of the municipality. A proposed amendment or repeal prepared by a person or body other than the Planning Commission shall be submitted in writing along with any supporting documents to the Planning Commission [§4441(a),(b)].

- Proposed bylaw/amendment drafted by, or under the direction of, the Planning Commission, or
- Proposed bylaw/amendment/repeal submitted for PC review [Date: _____], or
- Proposed bylaw/amendment/repeal submitted by signed petition [Date: _____]
- Confirmation that petition is signed by 5% of registered voters [Date: _____]
- Changes made only to correct technical deficiencies [Date: _____]
- Bylaw/amendment/repeal approved by the PC for public hearing [Date: _____]

Report Preparation

When considering a bylaw, amendment or repeal, the Planning Commission shall prepare and approve a written report on the proposal [§4441(c)].

- Written report prepared documenting bylaw/amendment/repeal conformance with the municipal plan. The report must provide a brief explanation of the proposal, a purpose statement as required for public hearing notice, and findings on how the proposal:
 - Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.
 - Is compatible with the proposed future land uses and densities of the municipal plan.
 - Carries out, as applicable, any specific proposals for any planned community facilities.
- Report approved by the Planning Commission for public hearing [Date: _____]

Public Hearing

The Planning Commission shall hold at least one public hearing on any proposed bylaw, amendment or repeal. Public notice of the hearing must be given not less than 15 days prior to the date of public hearing (not counting the hearing date) [§4441(d)-(f)].

- Public hearing notice prepared [Date: _____]
The hearing notice must include [§4444]:
 - The date, place and purpose of the hearing
 - Either the full text of the material, or
 - A statement of purpose, a map or description of the geographic areas affected, a table of contents or list of section headings, and a description of the place in the municipality where the full text may be examined.
- Copies of proposed bylaw amendment/repeal, written report and hearing notice were delivered at least 15 days prior to the first hearing date, with proof of receipt or by certified mail, return receipt request, to:
 - Planning Commission Chair of each abutting municipality (or Clerk if none exists) [Date: _____]
 - Executive Director of the Regional Planning Commission [Date: _____]
 - Vermont Department of Housing & Community Affairs [Date: _____]
- Public hearing notice published in a newspaper of general circulation in the municipality [Date: _____] and Posted in at least three places in the municipality [Date: _____]; or
- Copies of the full text or summary of materials, and the public notice, were delivered or mailed to each voter on the voter checklist and each landowner on the municipal grand list [Date: _____]
- Planning Commission public hearing(s) held. [Date(s): _____]
 - The Commission may make revisions to a proposed bylaw/amendment repeal following public hearing (except if submitted by petition) and may hold additional public hearings, but is not required to do so.

Submission to the Legislative Body

The Planning Commission may make revisions to a proposed bylaw, amendment or repeal and to the written report, and shall then submit the proposal and written report to the Legislative Body [§4441(g)].

- Planning Commission approved submission of proposal and written report to the Legislative Body [Date: _____]
- Proposed bylaw/amendment/repeal and report submitted to the Legislative Body [Date: _____]
 - If supported by petition, or if requested by the Legislative Body the Planning Commission must promptly submit the proposal to the Legislative Body, with only changes to correct technical deficiencies, along with its report, opinions or recommendations.
- Copy of proposed bylaw/amendment/repeal and written report filed with the Municipal Clerk [Date: _____]

Legislative Body

Amendments

The Legislative Body may make changes to a proposed bylaw/amendment/repeal but not less than 14 days prior to its final public hearing date. If any changes are made, the Legislative Body must file a copy of the changes with the Planning Commission and Municipal Clerk for review at least 10 days prior to the hearing date [§4442(b)].

- ___ Changes approved by the Legislative Body [Date(s): _____]
- ___ Changes filed with the Planning Commission and Municipal Clerk [Date(s): _____]
- ___ Amended Planning Commission report(s) received [Date(s): _____]
 - The Planning Commission must amend its report to reflect Legislative Body changes and present the report, as amended, to the Legislative Body prior to or at the public hearing.

Public Hearing(s)

Not less than 15 nor more than 120 days after a proposed bylaw/amendment or repeal is received from the Planning Commission, the Legislative Body must hold the first of one or more public hearings, after public notice, on the proposal. Failure to hold a hearing within the 120-day period does not invalidate bylaw/amendment adoption or the validity of a repeal [§4442(a)].

- ___ Public hearing notice prepared [Date(s): _____]
 - The hearing notice must include [§4444]:
 - The date, place and purpose of the hearing
 - Either the full text of the material, or
 - A statement of purpose, a map or description of the geographic areas affected, a table of contents or list of section headings, and a description of the place in the municipality where the full text may be examined.
- ___ Public hearing notice(s) published in a newspaper of general circulation in the municipality [Date(s): _____] and posted in at least three places in the municipality [Date(s): _____]; or
- ___ Copies of the full text or summary of materials, and the public notice, were delivered or mailed to each voter on the voter checklist and each landowner on the municipal grand list [Date(s): _____]
 - When the initial hearing is warned, the 150-day period for the issuance of permits under a proposed bylaw begins.
- ___ Legislative Body public hearing(s) held. [Date(s): _____]
 - If substantial changes in the concept, meaning or extent of a proposed bylaw or amendment are made following public hearing, the Legislative Body must hold another public hearing, and meet amendment and hearing notice requirements specified above.
- ___ Final public hearing held [Date: _____]

Routine Adoption

A bylaw, amendment or repeal shall be adopted by a majority of the members of the Legislative Body at a meeting that is held after the final public hearing, and shall be effective 21 days after adoption [§4442(c)]

- ___ Proposed bylaw/amendment/repeal adopted: ___ rejected: ___ by Legislative Body [Date: _____]
- Effective Date (21 days after adoption): _____

Popular Vote

A bylaw, amendment or repeal shall not take effect if five percent of voters petition for a meeting of the municipality to considered the proposal within 20 days of the date of adoption by the Legislative Body [§4442(d)].

- ___ Petition filed within 20 days of the date of adoption for a meeting of the municipality [Date: _____]
- ___ Confirmation that petition signed by 5% of registered municipal voters [Date: _____].
- ___ Meeting warned for purposes of acting on bylaw/amendment/repeal by Australian Ballot vote [Date: _____]
- ___ Meeting held [Date: _____]
- ___ Proposed bylaw/amendment/repeal adopted: ___ rejected: ___ by voters [Date: _____]
- Effective Date (date of adoption by voters): _____

Rural Town Adoption (Optional)

A rural town, by action of the Legislative Body or by vote of the town at warned regular or special meeting may elect to require that all bylaws be adopted by Australian ballot vote at a duly warned regular or special town meeting [§4442(c)(2)].

- ___ Action/vote taken to adopt bylaws by Australian ballot vote [Date: _____]
- ___ Meeting warned for purposes of acting on bylaw/amendment/repeal by Australian Ballot vote [Date: _____]
- ___ Meeting held [Date: _____]
- ___ Proposed bylaw/amendment/repeal adopted: ___ rejected: ___ by voters [Date: _____]
- Effective Date (date of adoption by voters): _____

Distribution

- ___ Copies of bylaw/amendment/repeal as adopted sent to the regional planning commission and the VT Department of Housing and Community Affairs [Date: _____]

CERTIFICATE OF MUNICIPAL BYLAW
___ADOPTION ___AMENDMENT ___REPEAL

I, _____, Clerk of the Town/Village/City of _____, in _____ County, State of Vermont, do hereby certify pursuant to 24 VSA, §§4441, 4442 and 4444, that the following actions were taken by the designated parties with the respect to the adoption/amendment/repeal of the proposed municipal bylaw for the Town of _____, of which the attached is a true copy.

Signed: _____
Date: _____

I PLANNING COMMISSION HEARING(S), SUBMITTALS

A) Transmittal of Proposed Bylaw/Amendment/Repeal

Mail by certified mail, return receipt requested, copies of proposed bylaw/ amendment/repeal, the hearing notice and the report with a solicitation for comments to:

Mail by *certified mail, return receipt requested*, copies of:

- proposed bylaw/amendment/repeal; hearing notice;
 report; and solicitation for comments

To:

- Planning commission chairs, of adjoining municipalities (or municipal clerk if no planning commission exists)

- Executive Director, (*Name and address of Regional Planning Commission*)
 DHCA, *National Life Building, Drawer 20, Montpelier, VT 05620-0501*
 Municipal Clerk, (*multiple plan copies with a request to post notice and make copies available to general public*)
 Interested Persons: _____

Statutory reference(s): §4441
Deadline for action: 15 days prior to first hearing date
Mailing Date: _____ **Initialed:** _____

On file: copy of proposed bylaw/amendment/repeal, hearing notice and report as mailed

B) Hearing Notice

The planning commission shall hold at least one public hearing on the proposed bylaw/amendment/repeal following 15 days notice. All hearings must be warned in accordance with the notice requirements under §§4442(c) and 4444. *Note: In calculating the warning/notice period, the first day shall not be counted, and the final day shall be counted.*

The planning commission has two options under §4444:

1) Publication in a general newspaper designated by the legislative body and posting in three or more places a notice of hearing(s), including date, time, place and purposed of the hearing, with either the full text of the material, or a summary, including a statement of purpose, geographic areas affected, table of contents/listing of section headings, and a description of the place within the municipality where the full text and/or maps may be examined,

Or 2) Publication in a general newspaper designated by the legislative body and posting in **three** or more places a notice of the date, time, place, and purpose of the hearing; and mailing or delivery of the hearing notice with copies of the full text, or a concise summary, including a statement of purpose, geographic areas affected, table of contents/listing of section headings, and a description of the place within the municipality where the full text and/or maps may be examined, to each voter on the voter checklist, and to each landowner on the grand list.

Statutory reference(s): §§4441and 4444

Deadline for action: 15 days prior to first hearing date

Posting Date: _____

Location(s): _____

Publication Date: _____

Newspaper: _____

Mailing Date: _____

(if applicable)

Initialed: _____

On file: copies of posted and published notices, dated copy of proposed bylaw/amendment/repeal as warned, copies of voter checklist and grand list, if applicable

C) Planning Commission Hearing

As noted, the planning commission must hold at least one public hearing, following public notice, on the proposed bylaw/amendment/repeal as warned. *Note: No changes may be made between the time the public notice is posted/published and the public hearing.*

Statutory reference(s): §4441

Deadline for action: 30 days after notice publication

Hearing Date: _____

Location: _____

On file: board minutes; comments submitted

D) Submittal of proposed bylaw/amendment/repeal to the legislative body and clerk.

The planning commission shall submit the proposed bylaw/amendment/repeal with any revisions (unless the proposal is petitioned) following public hearing, and written reports, to the legislative body of the municipality. Simultaneously, the planning commission shall file with the clerk of the municipality a copy of the proposed bylaw/amendment/repeal and written reports as submitted to the legislative body, for public review.

Statutory reference(s): §4441(g)

Deadline for action: None, however this should be done promptly following the final planning commission hearing, particularly if the bylaw/amendment/petition is supported by petition.

Filing Date: _____

Initialed: _____

On file: dated copy of proposed bylaw/amendment/repeal with revisions, reports as submitted by the planning commission to the legislative body and clerk following final planning commission hearing

II. LEGISLATIVE HEARING(S)

A) Hearing Notice

Not less than 15 nor more than 120 days after a proposed bylaw/amendment/repeal is submitted to the legislative body of the municipality, the legislative body shall hold one or more public hearings, following 15 days public notice, on the proposed bylaw/amendment/repeal. All hearings must be warned in accordance with the notice requirements under §4444. *Note: In calculating the warning/notice period, the first day shall not be counted, and the final day shall be counted.*

The legislative body has two options under §4444

1) Publication in a general newspaper designated by the legislative body and posting in **three** or more places a notice of hearing(s), including date, time, place and purpose of the hearing, with either the full text of the material, or a summary, including a statement of purpose, geographic areas affected, table of contents/listing of section headings, and a description of the place within the municipality where the full text and/or maps may be examined,

Or 2) Publication in a general newspaper designated by the legislative body and posting **three** or more places a public notice of the date, time, place, and purpose of the hearing; and mailing or delivery of the hearing notice with copies of the full text, or a concise summary, including a statement of purpose, geographic areas affected, table of contents/listing of section headings, and a description of the place within the municipality where the full text and/or maps may be examined, to each voter on the voter checklist, and to each landowner on the grand list.

Statutory reference(s): §§4442 and 4444

Deadline for action: 15 days prior to the first hearing date

Posting Date(s): _____

Location(s): _____

Publication Date(s): _____

Newspaper: _____

Mailing Date(s): _____

(if applicable)

Initialed: _____

On file: copies of posted and published notices, dates copy of proposed bylaw/amendment/repeal with planning commission report, as warned, copies of vote checklist and grand list, if applicable

B) Changes to proposed bylaw/amendment/repeal

The legislative body may change the proposed bylaw/amendment/repeal, but shall not do so less than 14 days prior to the final public hearing. If substantial changes are made in the concept, meaning, or extent of the proposed bylaw/amendment/repeal, it shall warn a new public hearing(s). If any part of the proposal is changed, the change shall be filed at least 10 days prior to the public

hearing with the municipal clerk and with the planning commission. The planning commission may submit a report thereon to the legislative body prior to or at the public hearing.

Statutory reference(s): §§4442
Deadline for action: 15 days prior to final hearing date

Filing Date: _____ **Initialed:** _____

One file: copy of proposed changes as warned, and filed with clerk and planning commission. Planning commission report if submitted prior to hearing

C) Legislative Body Hearing(s)

As noted, not less than 15 nor more than 120 days after a proposed bylaw/amendment/repeal is submitted to the legislative body, it shall hold the first of one or more public hearings, after public notice on the proposed bylaw/amendment/repeal. Also as noted above, if the legislative body makes any substantial changes, it shall warn a new public hearing or hearings and file the proposed changes with the clerk and planning commission at least 10 days prior to the final public hearing as warned.

Statutory reference(s): §§4442 and 4444
Deadline for action: not less than 15 nor more than 120 days following submission by the planning commission (for the first hearing); as warned

Hearing Date(s): _____
Locations: _____

Initialed: _____

On file: record of proceedings, attendance, planning commission report as submitted

III. ADOPTION OF MUNICIPAL BYLAW/AMENDMENT/REPEAL

A) By legislative body. (*urban municipality [population of 2,500 or more, incorporated villages] and rural municipalities which have retained the right by statute*)

Bylaws, amendments, and/or repeals, unless otherwise noted under subsection III. C (exceptions to routine adoptions) shall be adopted or rejected by a majority of the member of the legislative body at a meeting which is held after final public hearing, and shall be effective 21 days after adoption, unless otherwise petitioned (see subsection C, popular vote).

Statutory reference(s): §4442(c)
Deadline for action: One year of date of final planning commission hearing (unless petitioned under subsection D)

Date of Meeting/Vote: _____

Action: Adopted Rejected **Initialed:** _____

On file: meeting minutes, record of vote, dated copy of proposed bylaw/amendment/repeal as accepted or rejected by legislative body

B) Australian Ballot (*rural municipality (population of less than 2,500) which have elected to require Australian Ballot vote*)

A proposed bylaw, amendment or repeal for a municipality which has elected (in accordance with 24 V.S.A. §4442(c)(2)) to do so, shall be adopted or rejected by the vote of the municipality by Australian Ballot (17 VSA, §2641) at the next regular or special meeting duly warned and held

after final public hearing. The adoption or rejection shall be effective immediately. Since no discussion of the question may take place during the voting period, a public informational meeting is required prior to the vote.

- 3) **Public Information Hearing** A warned public informational hearing is required for any question to be voted on by Australian Ballot. This hearing may be held concurrently with the legislative body’s final public hearing, provided that the notice requirements for each are followed. Notice consists of posting the meeting date, time, place and purpose in at least three locations in the municipality, including the municipal clerk’s office.

Statutory Reference(s): Title 24 V.S.A., §4442(c)(2)
 Title 17 VSA, §§2641 and 2642
Deadlines for action: Posting: 10 days prior to hearing date
Hearing: prior to designated voting period

Posting Date: _____

Locations (3): _____

Hearing Date: _____

Location: _____

Initialed: _____

On file: copies of notice, record of hearing proceedings, attendance

- 4) **Vote by Australian Ballot** Questions voted on by Australian Ballot must be warned according to 17 VSA, §2641. The warning must be posted in three locations, including the municipal clerk’s office, and published in a newspaper designated by the legislative body; or if the vote is to take place at a regular meeting, it must be published and distributed as a warned article in the municipal report.

Statutory reference(s): Title 17 V.S.A., §§2641 and 2642
Deadlines for action: Posting: not less than 30 nor more than 40 days prior to vote
Publication, newspaper: at least 5 days prior to vote
Publication, report: at least 10 days prior to vote
Vote: within one year of date of final planning commission hearing, unless petitioned

Posting Date: _____

Locations (3): _____

Publication Date: _____

Newspaper/Report: _____

Meeting/Vote Date: _____

Action: Adopted Rejected

Initialed: _____

On file: copy of notice as posted, published; meeting minutes, record of vote; dated copy of proposed bylaw/amendment/peal as accepted or rejected by voters

C) Exception to routine adoptions

- 1) **Adoption by ordinance procedures, rural municipalities.** Rural municipalities may, at a duly warned and held regular or special meeting, elect to follow the provisions and

procedures of Title 24 VSC, Chapter 59 for the adoption, amendment, and repeal of municipal bylaws.

Statutory reference(s): Title 24 VSA, Chapter 117, §4404(d); Chapter 59
Deadlines for action: within one year of date of final planning commission hearing, unless petitioned

These procedures have been certified and are included under separate attachment.

Action: Adopted Rejected **Initialed:** _____
On file: certification of adoption by ordinance; dated copy of bylaw as adopted/rejected

- 2) Petition for Popular Vote a vote by the legislative body on a bylaw, amendment, or repeal shall not take effect if five percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment, or repeal, and the petition is filed within 20 days of the vote. In that case, a meeting of the municipality shall be duly warned for the purpose of acting by Australian ballot upon the bylaw, amendment, or repeal.

Statutory reference(s): 24 V.S.A., §4442(d)
Deadlines for action: petition filed within 20 days of vote

Date petition filed: _____

Within 20 days: Yes No

Validity confirmed by: _____

Date: _____

Date of Meeting/Vote: _____

Posting Date: _____ NA

Publication Date: _____ NA

Procedures for adoption by Australian Ballot have been certified and are included under separate attachment.

Action: Adopted _____ Rejected _____ **Initialed:** _____

On file: copy of petition; certification of action by Australian Ballot with attached documentation; dated copy of bylaw as adopted/rejected by voters

- 3) Extraordinary majority voting (amendments) An amendment of a bylaw of an urban municipality shall become effective only when adopted by a two-thirds vote of all members of its legislative body; and an amendment of a bylaw of a rural town shall become effective only when adopted by a two-thirds vote of those present and voting, if a written protest is filed with the legislative body at least 15 days before the vote on the adoption of the amendment or revision by:
 - 5 percent of the voters, or
 - the owners of 40 percent of the lots or area included in the proposed amendment; or,
 - the owners of 40 percent of the lots or area located outside the proposed amendment but within two hundred feet from the outer limits of lots included in the proposed amendment.

In a rural town, the legislative body shall give public notice that a written protest against the amendment has been filed, and that a two-thirds vote is thus required for adoption of

the amendment. Notice shall be given not less than 5 days prior to the date of the vote by publication in a newspaper of general circulation within the town and posting in one or more public places within the town.

Statutory reference(s): §4442(d)
Deadlines for action: Protest: filed 15 days prior to vote (urban, rural)
Posting: 5 days prior to vote (rural)
Publication: 5 days prior to vote(rural)

Date petition filed: _____
Within 20 days: Yes No

Validity confirmed by: _____
Date: _____

Date of Meeting/Vote: _____

Posting Date: _____ NA

Publication Date: _____ NA

Action: Adopted by 2/3 vote Rejected **Initialed:** _____
On file: copy of protest; copy of notice as posted/published, if applicable; record of adoption/repeal by two-thirds majority; date copy of amendment as adopted or repealed by two-thirds majority requirement

D. Petition for action past one-year deadline

As noted, if a bylaw, amendment or repeal is not approved or rejected by the municipality within one year of the date of the final planning commission hearing, it shall be considered disapproved unless 5 percent of the voters of the municipality petition for a meeting of the municipality to consider the bylaw, amendment or repeal, and the petition is filed within 60 days of the end of that year. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the bylaw or amendment by Australian Ballot.

Statutory reference(s): §4442(g)
Deadline for action: filing within 60 days of end of year as defined

Date petition filed: _____
Within 60 days: Yes No

Validity confirmed by: _____
Date: _____

Date of Meeting/Vote: _____

Posting Date: _____ NA

Publication Date: _____ NA

Procedures for adoption by Australian Ballot have been certified and are included under separate attachment.

Action: Adopted Rejected **Initialed:** _____
On file: copy of petition; certification of action by Australian Ballot with attached documentation; dated copy of bylaw/amendment/repeal as adopted/rejected by voters

Planning Commission Reporting Form for Municipal Bylaw Amendments

This report is in accordance with 24 V.S.A. §4441(c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide(:)

(A) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under §4444 of this title,

(A)nd shall include findings regarding how the proposal:

- 1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*
- 2. Is compatible with the proposed future land uses and densities of the municipal plan:*
- 3. Carries out, as applicable, any specific proposals for any planned community facilities.”*

Please Note:

- ❖ The planning commission shall hold at least one public hearing within the municipality after public notice on any proposed bylaw, amendment or repeal and;
- ❖ At least **15** days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered with proof of the receipt, or mailed by certified mail, return receipt requested, to each of the following:
 1. the chairperson of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that abutting municipality;
 2. the executive director of the regional planning commission of the area in which the municipality is located;
 3. the Department of Housing and Community Affairs within the Agency of Commerce and Community Development.

- ❖ The planning commission may make revisions to the proposed bylaw, amendment, or repeal and to the written report, and shall then submit the proposed bylaw, amendment or repeal and the written report to the legislative body of the municipality.

- ❖ Simultaneously, with the submission, the planning commission shall file with the clerk of the municipality a copy of the proposed bylaw, amendment, or repeal, and the written report for public review.