

Wilmington Selectboard Agenda

December 7, 2021 at 6:00 pm

1. Visitors, Public Comments, Possible Changes to the Agenda
2. Approve Minutes of November 16, 2021 (5 minutes)
3. Social Services (5 minutes)
 - *VT Bar*
4. Action Item(s):
 - *The Selectboard to possibly accept the resignation of Geri Kogut as the Senior Solutions representative.*
 - *The Selectboard to possibly approve an increase in mattress disposal fees to \$45 for mattresses and box springs and \$60 for sleep sofas.*
 - *The Selectboard to possibly approve the 2021 Errors & Omissions from the Listers.*
 - *The Selectboard to schedule a budget meeting.*
5. Greeter Program (5 minutes)
 - *The Selectboard to receive an update on the Greeter Program and the proposal for the program to continue.*
6. 1% Local Option Tax Request (10 minutes)
 - *The Selectboard to possibly approve the 1% request made by the Public Safety Facility Committee for an amount not to exceed \$8500.*
7. Traffic Ordinance (20 minutes)
 - *The Selectboard to possibly approve the proposed amendments to the traffic ordinance.*
8. North Main Sidewalks (5 minutes)
 - *Gretchen Havreluk to give an update on the North Main St Streetscape Project.*
9. Face Coverings in Town (15 minutes)
 - *The Selectboard to possibly approve a resolution requiring masks be worn in all public buildings and town owned buildings.*
10. Liquor Commission (5 minutes)
 - *The Liquor Commission to possibly approve a Request to Cater Permit for Jim's Bistro for an event at Memorial Hall on December 31, 2021*
11. Other Business
12. Selectboard Members Comments
13. Town Manager's Updates (5 minutes)
14. Executive Session
 - *The Selectboard to enter into executive session to discuss a contract for janitorial services.*

Wilmington Selectboard Meeting Minutes

November 16, 2021

Present: Tom Fitzgerald, John Gannon, Vince Rice, Sarah Fisher, Tony Tribuno

Others Present: Scott Tucker, Jessica DeFrancesco, Ann Manwaring, Gretchen Havreluk, Anne Guion, Becky Arbella, Terrie Dumaine, Chief Murano, Officer Kirkman, Amelia Nick, Bret & Ann Brown, Lorri Hall, Allyson Erickson, Jessica Lee Smith, Therese Lounsbury, Barker Willard, Cliff Duncan, Barbara Trudeau, John Lazelle, Mike Barber, Jim Knabe, Andrea and Jack Burke, Shellie Rosan, James Walker, Gene Clark, Paul Fisher, Charlie Sullivan, George and Joanne Paras, Jon Massari, Annie Guion, Ken and Barbara Lady, Charlotte Verny, Ryan Todd

Meeting called to order at 6:00 pm

1. Visitors, Public Comments, Possible Changes to the Agenda
2. Approve Minutes of November 2, 2021
 - Gannon moved to approve the minutes of November 2, 2021, Fisher second; all in favor.
3. Social Services
 - Windham County Humane Society provides veterinary care as well as adoption. 21 cats and 5 dogs received spay/neuter services, diagnostic services were given as well as humane euthanasia; took in 6 animals and reunited 1.
 - Senior Meals; service 40 people twice a week between the meal site and meal pick-up. Seven-ten are Wilmington residence that come in-person. Whitingham is the only other town that contributes alongside Wilmington.
 - SASH; third year receiving funds from Wilmington. The Foodbank does about 38 deliveries. They have 10 iPads out on loan so they are able to offer telehealth.
 - VNH; works with 140 towns. Provided 717 homecare visits to Wilmington residents. Hospice services had 78 visits for 3 residents.
 - VT Bar; not present
4. Action Item(s):
 - Gannon moved to approve the Grants in Aid Equipment Purchase Letter of Intent for FY22, Rice second; all in favor.
5. Deerfield Valley Fiber
 - Deerfield Valley Fiber members Ann Manwaring and Gretchen Havreluk gave an update on their project. DV Fiber has been all-volunteer, with near 50 members. There are six phase one towns, which are the least served towns. The building process should be starting soon; pre-construction, make ready with the power company, and then design & engineering.
6. Ray Hill Rd
 - The Selectboard discussed the Ray Hill Rd traffic with the Police Chief. Traffic and increase in residents have been ongoing concerns throughout town. The police department has been working to address some of the traffic safety concerns on Ray Hill over the last couple of years; speed, increase in traffic, blind driveways. Enforcement has been increased and some signs have been put into place. There were about 141 cars/day going one-way last year. This year it is up to 321 on heavy traffic days. High speeds are not registered generally, but there is a large increase in traffic count. The road was not built for that kind

of activity. About 65 vehicles this year have been stopped for some sort of traffic violation. The Chief has contacted Garmin about Lake Raponda and Ray Hill as re-routes, and some adjustments have been made. Speed bumps and speed tables were mentioned during a meeting with Ray Hill residents. A local ordinance making it a non-thru traffic roadway was also discussed; from the intersection with Mann Rd to Rt 9. This would push traffic to other areas like Haystack Rd. Navigation units could be advised of this and it would be removed as a re-route. Lori Hall commented that she has seen many cars going by much faster than the speed limit. Barker Willard has had cars try to pass him on Ray Hill. The Board will look at a draft ordinance at their second December meeting.

7. Stump Jumpers

- The Haynes Rd request is different than last year. The new proposal keeps them away from Meadowlark and off Brown Rd. They are still waiting for final landowner approval. There is concern about traffic at the Haynes Rd/Higley Hill crossing. Snowbanks will narrow the bridge. Once the Stump Jumpers gain permissions for the one parcel of land they need, and the police dept assesses the safety concerns, it will be revisited. Gannon moved to approve the annual request by the Deerfield Valley Stump Jumpers for use of town road for snowmobile access, with the exception of the crossing of Higley Hill Rd to Haynes Rd, Rice second; all in favor.

8. American Rescue Plan Act

- The Board discussed the ARPA funding for the Town. (Document attached).

9. Other Business

10. Selectboard Members Comments

- The state is going into special session to discuss legislation on town mandated masks, that will need to be reviewed every 30 days. They will also be looking at allowing towns moving to Australian ballot by vote of the town's governing body without the need of a floor vote.
- Fitzgerald noticed kayaks are being removed from the stack on Lake Raponda.
- Fisher feels like there is a theme to meetings lately; and that is "growing pains". The small-town feel, but also the economics of the town should be kept in mind.

11. Town Manager's Updates

- 9 South Main St project went very well and it is complete.
- Planning Commission has sent the vacant building ordinance to him for review.
- Lake Raponda dam has had trees cleared up to 15-ft from the dam.
- Met with Somerset regarding fire coverage and no changes have come from it yet.
- Mt Snow will be postponing their opening
- Town Manager, Police Chief and Rep Gannon have been interviewed by DCTV
- Chief Murano issued a letter of accommodation to Officer Kirkman.

Meeting adjourned at 8:01 pm

Respectfully Submitted,
Jessica DeFrancesco, Administrative Assistant

Approved by the Wilmington Selectboard:

Thomas Fitzgerald, Chair

John Gannon, Vice Chair

Vince Rice, Clerk

Sarah Fisher

Tony Tribuno



Vermont Bar Foundation

Promoting Equal Access to Justice for All Vermonters

October 26, 2021

Wilmington Select Board
Via email

Dear Wilmington Select Board members,

The Vermont Bar Foundation is a state-wide 501c3 organization that funds legal services for low-income Vermonters. Last year 93% of Vermonters facing eviction hearings, did so without a lawyer. We work to change that because access to justice should be a right, not a privilege.

We are asking the Wilmington Select Board to fund our request of a \$600 donation so that the Vermont Bar Foundation can continue to help the Vermonters who need it most.

Last year twelve adults in Wilmington received free help for resolving civil legal issues. While twelve might not seem like a large number, think of the ripple effect this had. This could help twelve families stayed safely housed and remain in Wilmington. When parents get evicted, kids get evicted too; or twelve people who needed help with domestic violence issues and are now safer in their homes, or twelve people who were safer at their jobs, or had their benefits reinstated.

These are your neighbors, and our work allowed them to get the help they needed.

Here is a link (<https://vtbarfoundation.org/wp-content/uploads/2019/11/Economic-Impact-Study-Executive-Summary-and-Report-2.pdf>) to the Economic Impact Study VBF commissioned with the Vermont Supreme Court that shows for every \$1 invested in Vermont Low-Income Legal Services, the State and Vermonters see a rate of return of \$11, or a social impact return on investment of 1106%.

The Vermont Bar Foundation has been providing access to legal services for Vermonters since 1982. Our tax-exempt number is: 03-0285318.

Thank you so much for considering our request.

Sincerely,

Harry Parker President-Elect, Board of Directors, Vermont Bar Foundation
Chair, North Hero Select Board



499 Route 9 West, Wilmington, VT 05363

H-802-464-3457 / C 203-859-0163 / kogut1@outlook.com

TO: The Wilmington Selectboard

DATE: November 23, 2021

Dear Wilmington Selectboard Members,

I am submitting my resignation as the Wilmington Representative to the Senior Solutions Advisory Council. I learned so much more with the work supporting our seniors and communities after becoming Chair of the Advisory Council because it automatically gave me a seat on the Executive Board of Directors. As a result, I was recently voted in as President of the Executive Board with my term beginning on October 1, 2021. We also have newly elected Advisory Council Co-Chairs taking over my role that are now on our Board which continues the communication and networking from the towns represented at their monthly meetings.

As the new President of the Board, I will work to ensure the Mission of Senior Solutions, Council on Aging for Southeastern, VT: *To promote the well-being & dignity of older adults* for every community we serve and to help support their caregivers and families through networking, outreach and resources.

Thank you for the opportunity to serve Wilmington for the past 2 years as the Advisory Council Representative.

Sincerely,

Geri Kogut



November 11, 2021

Subject: Price Increase for Select Items

Dear Valued Customer,

Our goal at Casella is to provide every customer with a reliable and cost-effective disposal outlet. We strive to control our costs to provide you with a competitive disposal rate while maintaining unparalleled customer service. Due to recent increased processing & disposal costs at surrounding landfills, we will be increasing our rates on select items that we may be picking up from your address. Our per unit rate for mattresses will be increasing to \$40 per mattress and tires will be increasing to \$30 per tire.

Please note that effective November 11, 2021 you will notice a price increase on your invoice if you have any of these items.

Should you have any questions, please feel free to give us a call at (802) 455-9118 and ask to speak with Joe. We thank you for your continued business and look forward to continuing to provide you with great customer service.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Maguire", written over the printed name.

Joseph Maguire
Operations Manager
Casella Waste Management
Shaftsbury, VT Collection

TOWN OF WILMINGTON

(802) 464-8591
FAX(802)464-8477
www.wilmingtonvermont.us

FROM: LISTERS OFFICE
MEMO TO: BOARD OF SELECTPERSONS
RE: CORRECTIONS TO 2021 GRAND LIST

DATE: December 7, 2021

These properties were not listed correctly in the Grand List for the 2021 and are hereby submitted for your approval.

1. Lackey Morris & Ronda & Bradford - 005-01-004.000
Was Listed at: \$29,610
Now Lister at: \$27,010
2. Chernosky Gail & Sirois Benjamin et al 008-01-002.000
Was Listed at: \$158,790
Now Listed at: \$144,080
3. Chamberlain, Linda – HSDAVISM.049
Was Listed at: \$245,350
Now Listed at: \$171,745
4. DeFrancisco, Joseph – 002-04-048.000
Was Listed at: \$122,180
Now Listed at: \$ 85,526
5. Cutler Joshua V & Doty Alexa J - HSTWOBRO.032

Was Listed at: \$178,210
Now Listed at: \$124,747
6. PALMITER, BRADLEY & COLEEN 009-01-048.000
Was Listed at: \$897,830
Now Listed at: \$847,830

Approved by the Board of Selectpersons

Thomas Fitzgerald, Chairperson

cc: Therese Lounsbury, Town Clerk
Christine Richter, Finance Officer

We have corrections that need to be made to the 2021 Grand List. According to 32 VSA 4261 corrections can be made up until December 30th, 2021.

1. Fireplaces removed – change in value
2. Current Use value was dropped
3. HABITAT
4. HABITAT
5. HABITAT
6. Palmiter BCA Result did not carry over to 2021 GL

Thanks

Deb Kingsley, Administrator Board of Listers

Windham County Public Access Greeter Programs

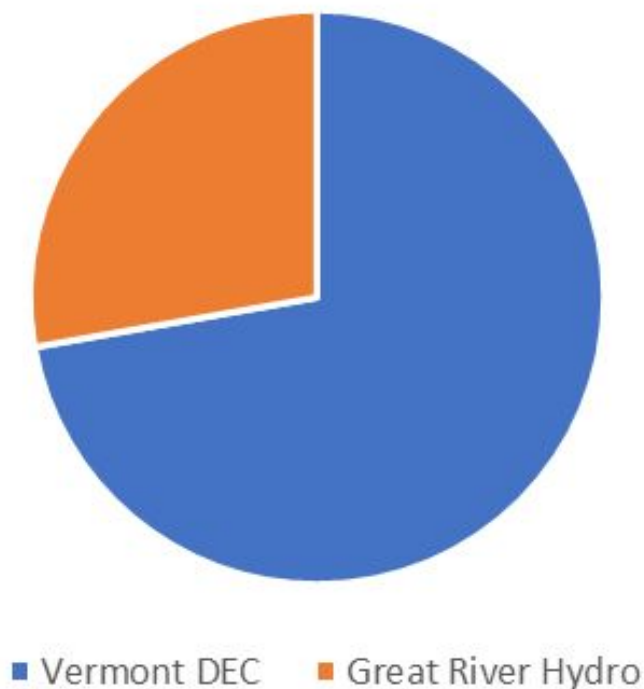
Preventing the Introduction of Aquatic Invasive Species into Windham County's Water Bodies

- Greeters **educate the public** about AIS and the importance of cleaning, draining and drying their boats in between uses.
- Greeters **inspect watercraft** at popular boat launches prior to launch for plant and animal material.
- Greeters **collect information** about boaters and inspection results that helps Vermont prevent the spread of AIS and prioritize funding for future years.

2020 Harriman Greeter Program Funding by Source

Harriman Program:

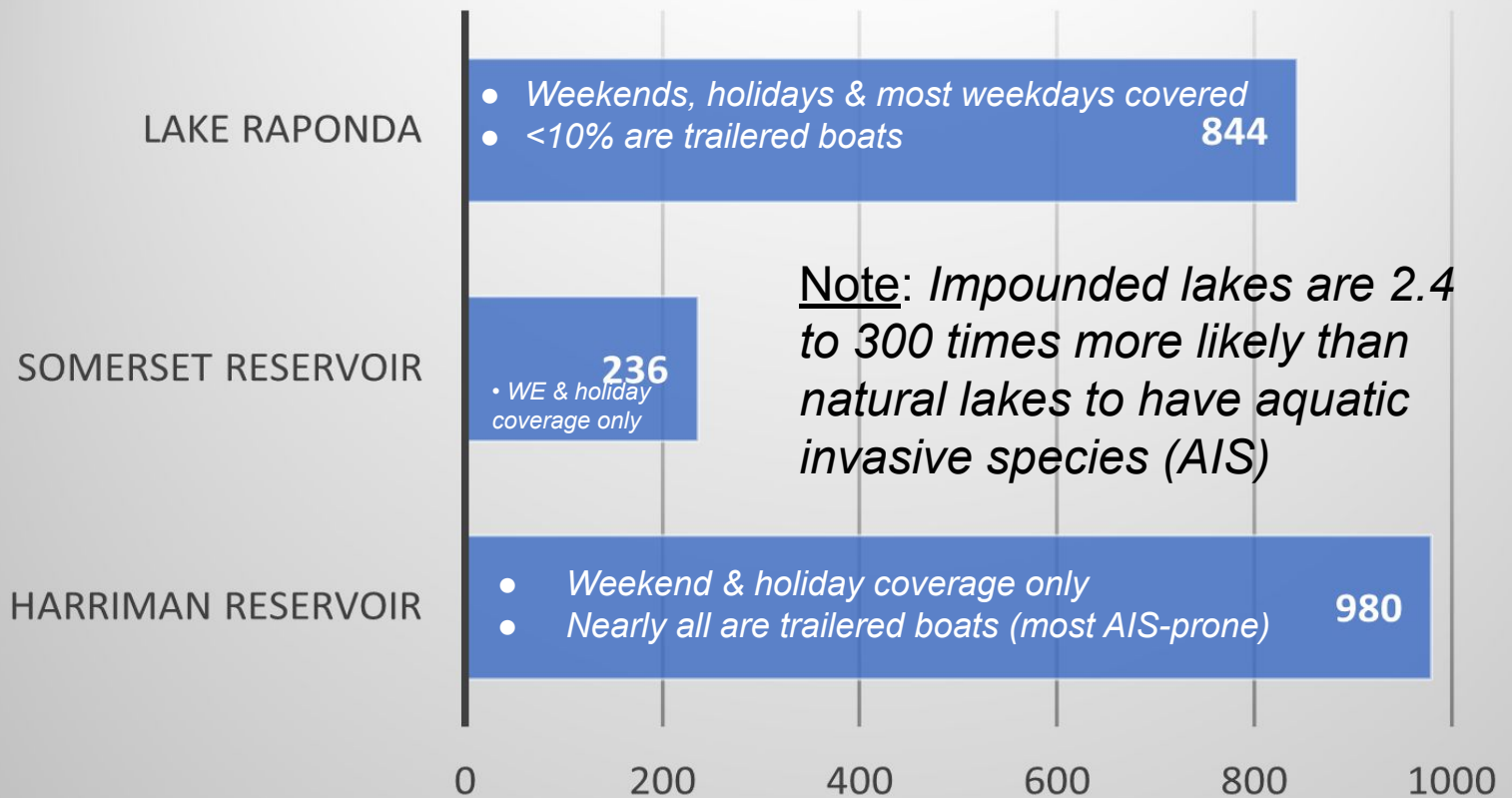
- Began in 2019
- Site: Fairview Ave
- Largest volume of trailer boats in Windham County
- Supported by Vermont DEC & Great River Hydro
- Has no Lake Assn or other local support & only one volunteer;
- Didn't apply in 2021—due to lack of funding;



Vermont DEC expects to fund only ~25% of the cost of all AIS programs in 2023

2020 Total Inspections

(Note that number of days in operation highly variable between sites)



Why is Harriman Greeter Program Important to Wilmington?

- Serves role as important local recreational area enjoyed by locals and tourists — with no AIS yet identified
- Only at Fairview boat launch alone there are ~30 to 40 times more trailered boats than Raponda (trailered boats are the main cause for the spread of AIS)
- With high boat traffic there is *both* high risk of introducing AIS & great opportunity to do education about AIS prevention
- Introduction of AIS would reduce quality of recreation at Harriman for boating, fishing, swimming, sailing, etc.

We continue to identify funding & volunteers for Harriman AIS

Procedure for Funding Requests of the 1% Local Option Tax Reserve Fund

The following guidelines have been established for the use of the 1% Local Option Tax Reserve Fund:

- The Select Board is the statutorily approved decision making body authorized to determine the use of the Reserve Funds. All requests for funding must be approved by the Select Board.
- Projects that are less than or equal to 20% of the balance in the 1% Local Option Tax Reserve Fund can be approved by the Select Board.
- Projects that are more than 20% of the balance in the 1% Local Option Tax Reserve Fund must be approved by the Select Board and the Wilmington voters at a properly warned Special Meeting.
- Any monies transferred from the Local Option Tax Fund into a town reserve or capital fund for use must receive voter approval at a properly warned Special Meeting.
- The Select Board reserves the right not to fund a project should such an undertaking be deemed unacceptable; or to fund it in an amount different from the original request.
- The Select Board reserves the right to bring **any** project, regardless of cost, to the voters if they deem it in the best interest of the Town to do so.
- Applicants that are interested in applying for monies from the Reserve Fund will need to **complete a short application form or submit a similar informational Business Plan.**
- The Select Board will issue a decision on all applications within four weeks of the presentation of the application at a Select Board meeting provided that the Select Board determines that no additional information is needed to make a decision. If additional information is needed, the Select Board will issue a decision within two weeks of receiving that additional information.
- Approved projects will be able to access the funds with the signing of the next Town warrants (usually within one week).
- The above guidelines will also apply to any Select Board sponsored projects.
- The Selectboard has authorized using the Local Option Tax Fund when applying for grants that require matching funds.

Requests For Funding Through the 1% Local Option Tax Fund

Name of Person/Organization/Business/Committee:

Wilmington Public Safety Facility Committee

Date of Request: 11/15/2021

Contact person, phone numbers, mailing and email address:

M.Murano -802-464-8593

C.Clerici – 802-338-6517

S.Moore- 802-464-8022

Amount of Request and Date Funding Needed:

Amount not-to-exceed \$8500 – funding will be needed by Feb 1, 2022 for event planned for 6/25/2022.

Describe in detail the purpose and specific use of the funding

100% of requested funding will be used to hold a community open house event for the new Wilmington Public Safety Building.

Please provide a financial breakdown of your project/request.

Food: \$5000

Entertainment: \$1000

Supplies/Cleanup: \$500

Advertising: \$1000

T-shirts: \$500

Porta-Toilets: \$500

Briefly describe the need for the funding and any other information that can support the application.

This funding will support a community open-house event for the new Wilmington Public Safety Facility. The event will include the ribbon cutting ceremony, memorial sign unveiling, a charity softball game, music, food and t-shirts. Some of the requested funding will also be used for the advertising of the event.

Signature of Applicant: *Matthew Murano*

Date: 11/16/2021

North Main Street Streetscape Project Public Meeting

The Town of Wilmington has received a \$215,600 VTrans Bike/Pedestrian Grant for redesign of the streetscape on the east and west sides of North Main Street. The project spans from the intersection at the center of town to the Baptist Church stairs for the west side, and center intersection to Lisle Hill Road on the east side. Depending on state permitting, construction will take place in the Spring of 2022.

The project includes replacement of concrete sidewalks, granite curbing, light posts, a new crosswalk, and widening in some areas.

We need your input on the project design! Now is your chance to see the concept plans and provide comments.

The Town of Wilmington hired Dufresne Group to design, assist with permitting, and assist with construction of the project. A local committee was formed which includes Sheldon Brasseur (Highway Superintendent), Renee Galle (Business Owner), Sheila Osler (Wilmington Works Design Committee Member), Meg Staloff (Wilmington Works Program Coordinator), Scott Gurly (VTrans Project Manager), and Gretchen Havreluk (Wilmington Economic Development Consultant).

We will be holding a **Public Meeting on Tuesday December 14th at 5:30** at the Wilmington Town Office Meeting Room and also available via Zoom.

Join Zoom Meeting

<https://us02web.zoom.us/j/87304841725>

Meeting ID: 873 0484 1725

1 646 558 8656

For questions or if you are unable to attend on Dec. 14th, please contact Gretchen Havreluk ghavreluk@wilmingtonvt.us or (802) 464-8591 ext 117

Governor Signs Legislation Authorizing Face Covering Rules

Nov. 23, 2021. As winter and the holiday season approach, Vermont's COVID-19 cases counts are surging, putting Vermont near the top of states reporting new COVID-19 cases. Yesterday, in an extraordinarily unusual move, Governor Scott called the legislature into a one-day special session to consider granting cities, towns, and villages temporary authority to establish face covering requirements in public places within the boundaries of their jurisdictions. In the last several weeks, the governor made it clear that while his administration is doing everything possible to encourage people to get vaccinated, wear face coverings while indoors in public places or in close confines, and practice social distancing, especially indoors, he does not support re-imposing a mask mandate and would not establish such a requirement statewide. His administration likewise would not make use of Title 18 section 613, which reads,

§ 613. Powers of local board.

(a) A local board of health may make and enforce rules in such town or city relating to the prevention, removal, or destruction of public health hazards and the mitigation of public health risks, provided that such rules have been approved by the Commissioner. Such rules shall be posted and published in the same manner that ordinances of the municipality are required to be posted and published.

In August, the governor denied a petition from the Town of Brattleboro to re-impose a masking requirement pursuant to that law. No town has since taken up the issue, there being no point when a denial of permission was certain.

Last week, Scott *did* offer the legislature the option of passing a law to authorize cities, towns, and villages to establish such requirements on a temporary basis, on the condition that the bill not deviate from the draft the administration had prepared.

On Monday, the legislature considered a single bill: S.1. The Senate, having taken testimony last week, debated, amended, and passed the bill in the early afternoon. At the same time, the House Government Operations Committee took testimony on the bill, including from your Advocacy staff. We thanked the committee for taking up the matter since no statewide mask mandate would be forthcoming. We also answered questions about the historic authority to enact health orders; the names of the municipalities that might discuss, adopt, and implement a mask requirement; and the ability of local government to undertake such efforts.

The bill, which passed the House in the early evening, authorizes towns, cities, and villages to establish masking requirements through rule. A local legislative body may initially adopt the masking requirement for up to 45 days and may renew it subsequently for 30-day periods through April 30, 2022. The rule would not be subject to petition and could take effect immediately upon adoption at a duly warned regular or special meeting of the local legislative body. The rule would not apply to schools. The VLCT Municipal Assistance Center can help answer questions regarding the details of S.1.

S.1 is a permissive grant of authority and not a mandate – the helpful kind of authority that local governments request of the legislature. A municipality may now discuss and adopt a face covering rule if case counts and trends in their jurisdictions warrant such action. It is, however, under no obligation to do so.

Governor Scott signed the legislation today.

- [Advocacy handouts to House Government Operations Committee](#)
- [S.1 as passed](#)

Karen Horn, Director
Public Policy and Advocacy

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 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; and/or a person while eating or drinking inside any establishment that serves food or beverage. If a selectboard decides not to have a section that allows for exceptions, then this section of the model rule should be deleted and all subsequent sections renumbered accordingly.

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.

Municipal Regulatory Authority; Temporary Authority to Adopt Rules Requiring Face Coverings

WHEREAS, S.1. is a Bill Introduced in the Vermont Legislature and Passed by Senate and House, during a Special Session, and hereby signed into law by Governor Scott on November 23, 2021, the Selectboard desires to enact and encourage measures as stated “For the purpose of COVID-19 prevention and mitigation,” and

WHEREAS, “The legislative body shall have the authority to adopt a temporary rule requiring individuals to wear face coverings while indoors at locations that are open to the public. A rule adopted pursuant to this section shall not apply to school buildings or school property which shall remain under the authority of the school board”, and

WHEREAS, “The legislative body of a municipality shall adopt a rule authorized by this section at a regular or special meeting of the legislative body warned for that purpose,” and

WHEREAS, “Notwithstanding 24 VSA 1972 and 1973 or any municipal charter provision to the contrary, a rule adopted pursuant to this section shall take effect upon adoption and shall not be subject to a petition for permissive referendum,”

WHEREAS, “A rule adopted pursuant to this section shall remain in effect for not more than 45 days following its initial adoption. The legislative body of a municipality that adopted a rule pursuant to this section shall meet during the period in which the initial rule is in effect and vote either to rescind the rule or to extend the rule for an additional 30 days. Thereafter, the legislative body shall meet at a minimum once every 30 days to reconsider the rule, at which meeting the legislative body shall vote either to rescind the rule or to extend the rule for an additional 30-day period.

WHEREAS, “The authority granted by this section shall expire on April 30, 2022, and any municipal face covering rule in effect on that date shall be repealed.”

WHEREAS, Data from the Vermont Department of Health indicates that Wilmington is among the towns with the highest rate of COVID-19 cases in Vermont for the period from November 10, 2021 to November 23, 2021.

WHEREAS, The Vermont Department of Health recommends wearing a face covering in public indoor settings because “a significant number of Vermonters remain unvaccinated and the more transmissible Delta variant is still spreading.”

NOW THEREFORE, BE IT RESOLVED that the Selectboard issues the following municipal rule:

1. Requirement to Wear Face Coverings. Starting December 8, 2021, any member of the public entering a Town-owned building or a business located in the Town of Wilmington that will be open to the public must wear a face covering over their mouth and nose

that is consistent with the Vermont Department of Health's guidance on face coverings.

2. Exceptions. The Vermont Department of Health advises that face coverings should never be worn by children under the age of two, anyone who has trouble breathing or anyone unable to remove a mask without assistance.
3. Posting Requirement. Each covered establishment must post signage at the entrance and at other appropriate locations stating that members of the public are required to wear face coverings by order of the Wilmington Selectboard.

Dated at Wilmington, Vermont this 7th day of December, 2021.

Wilmington Selectboard

Thomas Fitzgerald

John Gannon

Vince Rice

Sarah Fisher

Tony Tribuno

[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:

- [insert 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

**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:

- [insert 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]:

Hi Jessica,

I won't be able to be at the meeting, but I would like to strong back the reinstatement of mask mandates. As a public building, it gives us an ability to say that this not just something that we require, but also something that the town does, as well. I think it is clear that our efforts last year kept Vermont the safest in the nation, and as ski season approaches, the number of people coming into our buildings will increase. A mask mandate will help us protect them and ourselves.

Please let me know if you or Scott have any questions for me.

Thanks,
Allison

Allison Maynard

(she/her)

Director

Pettee Memorial Library

16 South Main Street - PO Box 896

Wilmington, VT 05363

(802) 464-8557

petteelibrary@yahoo.com

petteelibrary.org

Not sure if I will be able to attend but as the Owner of Pickwell's Barn I would love to see the town mandate masks. At this time I am requiring mask at the store Thank You Andrea Berg