

1 S.168

2 Introduced by Senator White

3 Referred to Committee on

4 Date:

5 Subject: Municipal government; miscellaneous amendments

6 Statement of purpose of bill as introduced: This bill proposes to make

7 miscellaneous amendments to laws governing municipalities.

8 An act relating to making miscellaneous amendments to laws governing
9 municipalities

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 * * * Municipal Animal Control * * *

12 Sec. 1. 13 V.S.A. § 351 is amended to read:

13 § 351. DEFINITIONS

14 As used in this chapter:

15 * * *

16 (4) "Humane officer" or "officer" means any law enforcement officer as
17 defined in 23 V.S.A. § 4(11); ~~auxiliary state police~~ State Police officers; ~~;~~
18 deputy game wardens; humane society officer, employee, or agent, ~~elected~~
19 ~~animal control officer~~; animal control officer appointed by the legislative body

1 of a municipality; local board of health officer or agent; or any officer
2 authorized to serve criminal process.

3 * * *

4 Sec. 2. 20 V.S.A. § 3549 is amended to read:

5 § 3549. DOMESTIC PETS OR WOLF-HYBRIDS, REGULATION BY
6 TOWNS

7 The legislative body of a city or town by ordinance may regulate the
8 licensing, keeping, leashing, muzzling, restraint, impoundment, and destruction
9 of domestic pets or wolf-hybrids and their running at large except that a
10 legislative body of a city or town shall not prohibit or regulate the barking or
11 running at large of a working farm dog when it is on the property being farmed
12 by the person who registered the working farm dog, pursuant to subsection
13 3581(a) of this title, in the following circumstances:

14 (1) If the working farm dog is barking in order to herd or protect
15 livestock or poultry or to protect crops.

16 (2) If the working farm dog is running at large in order to herd or protect
17 livestock or poultry or to protect crops.

18 Sec. 3. 20 V.S.A. § 3550 is amended to read:

19 § 3550. ENFORCEMENT; MUNICIPAL LEGISLATIVE BODY;
20 COMMISSIONER

21 * * *

1 (k) A municipality may adopt ordinances inconsistent with this section
2 imposing penalties for violation of any provisions of subchapter 1 or 2, refusal
3 to obtain a kennel permit, or refusal to comply with an order issued by a
4 municipal officer under subchapter 5 of this chapter, in which case those
5 ordinances shall apply.

6 Sec. 4. 20 V.S.A. § 3621 is amended to read:

7 § 3621. ISSUANCE OF WARRANT TO IMPOUND; COMPLAINT

8 (a)(1) The legislative body of a municipality may at any time issue a
9 warrant to one or more police officers ~~or~~ constables, or pound keepers, ~~or~~
10 ~~elected or appointed animal control officers~~, directing them to proceed
11 forthwith to impound all dogs or wolf-hybrids within the town or city not
12 licensed according to the provisions of this subchapter, except as exempted by
13 section 3587 of this title, and to enter a complaint against the owners or
14 keepers thereof.

15 (2) A dog or wolf-hybrid impounded by a municipality under this
16 section may be transferred to an animal shelter or rescue organization for the
17 purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or
18 wolf-hybrid cannot be placed in an adoptive home or transferred to a humane
19 society or rescue organization within ten days, or a greater number of days
20 established by the municipality, the dog or wolf-hybrid may be destroyed in a
21 humane way. The municipality shall not be liable for expenses associated with

1 keeping the dog or wolf-hybrid at the animal shelter or rescue organization
2 beyond the established number of days.

3 * * *

4 * * * Current and Delinquent Tax Collectors * * *

5 Sec. 5. 17 V.S.A. § 2646 is amended to read:

6 § 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

7 At the annual meeting, a town shall choose from among its legally qualified
8 voters the following town officers, who shall serve until the next annual
9 meeting and until successors are chosen, unless otherwise provided by law:

10 * * *

11 (8) ~~A collector of current taxes, if the town so orders; [Repealed.]~~

12 (9) A collector of delinquent taxes, if the town so orders, for a term of
13 one year unless a town votes that a collector of delinquent taxes shall be
14 elected for a term of three years. When a town votes for a three-year term for
15 the collector of delinquent taxes, that three-year term shall remain in effect
16 until the town rescinds it by the majority vote of the legal voters present and
17 voting at an annual meeting, duly warned for that purpose;

18 * * *

19 Sec. 6. 17 V.S.A. § 2651d is added to read:

20 § 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT;

21 REMOVAL

1 (a) A municipality may vote by Australian ballot at an annual or special
2 meeting to authorize the legislative body to appoint a collector of delinquent
3 taxes, who may be the municipal treasurer. A collector of delinquent taxes so
4 appointed may be removed by the legislative body for just cause after notice
5 and hearing.

6 (b) When a municipality votes to authorize the legislative body to appoint a
7 collector of delinquent taxes, the legislative body's authority to make such
8 appointment shall remain in effect until the municipality rescinds that authority
9 by the majority vote of the legal voters present and voting at an annual or
10 special meeting, duly warned for that purpose.

11 (c) Any collector of delinquent taxes appointed under this section shall be
12 paid a salary or other compensation for collecting delinquent taxes in lieu of
13 fees and commissions. Fees and commissions collected by the collector of
14 delinquent taxes shall be turned over to the municipal treasurer at least once a
15 month.

16 * * * Incompatible Offices; Cemetery Commissioners and

17 Treasurers * * *

18 Sec. 7. 17 V.S.A. § 2647 is amended to read:

19 § 2647. INCOMPATIBLE OFFICES

20 (a)(1) An auditor shall not be town clerk, town treasurer, ~~selectman~~
21 selectboard member, first constable, collector of current or delinquent taxes,

1 trustee of public funds, town manager, road commissioner, water
2 commissioner, sewage system commissioner, sewage disposal commissioner,
3 cemetery commissioner, or town district school director; nor shall a spouse of
4 or any person assisting any of these officers in the discharge of official duties
5 be eligible to hold office as auditor.

6 (2) A ~~selectman~~ selectboard member or school director shall not be first
7 constable, collector of taxes, town treasurer, auditor, or town agent. A
8 ~~selectman~~ selectboard member shall not be lister.

9 (3) A cemetery commissioner shall not be town treasurer.

10 (4) A town manager shall not hold any elective office in the town or
11 town school district.

12 (5) Election officers at local elections shall be disqualified as provided
13 in section 2456 of this title.

14 (b) Notwithstanding subsection (a) of this section, if a school district
15 prepares and reports its budget independently from the budget of the town and
16 the school district is audited by an independent public accountant, a person
17 shall be eligible to hold office as auditor even if that person's spouse holds
18 office as a school director.

19 * * * Town Clerks; Public Record Redaction Authority * * *

20 Sec. 8. 24 V.S.A. § 1164 is amended to read:

21 § 1164. CERTIFIED COPIES; FORM

1 (a) A town clerk shall furnish certified copies of any instrument on record
2 in his or her office, or any instrument or paper filed in his or her office
3 pursuant to law, on the tender of ~~his~~ the clerk's fees therefor, and his or her
4 attestation shall be a sufficient authentication of the copies, except that the
5 town clerk shall not copy the word "illegitimate" from any birth certificate he
6 or she furnishes. The town clerk may redact Social Security numbers from
7 copies of any instrument or record in his or her office.

8 (b) Copies of vital records for events occurring outside the ~~state~~ State, filed
9 with a town clerk pursuant to ~~section 5015 of Title 18~~ V.S.A. § 5015, shall not
10 be copied and certified.

11 * * * Planning and Advisory Commissions * * *

12 Sec. 9. 24 V.S.A. § 4433 is amended to read:

13 § 4433. ADVISORY COMMISSIONS AND COMMITTEES

14 Municipalities may at any time create one or more advisory commissions,
15 which for the purposes of this chapter include committees, or a combination of
16 advisory commissions to assist the legislative body or the planning
17 commission in preparing, adopting, and implementing the municipal plan.
18 Advisory commissions authorized under this section and under chapter 118 of
19 this title may advise appropriate municipal panels, applicants, and interested
20 parties in accordance with the procedures established under section 4464 of
21 this title.

1 (1) Creation of an advisory commission. Advisory commissions not
2 authorized in chapter 118 of this title shall be created as follows:

3 (A) An advisory commission may be created at any time when a
4 municipality votes to create one, or through adoption of bylaws, or ~~if the~~
5 ~~charter of a municipality permits it~~, when the legislative body of the
6 municipality votes to create one.

7 (B) An advisory commission shall have not less than three members.
8 All members should be residents of the municipality, except that historic
9 preservation, or design advisory, ~~or conservation~~ commissions may be
10 composed of professional and lay members, a majority of whom shall reside
11 within the municipality creating the commission.

12 * * *

13 (2) Procedures for advisory commissions. Advisory commissions not
14 authorized in chapter 118 of this title shall establish the following procedures:

15 (A) At its organizational meeting, an advisory commission shall
16 adopt by majority vote of those present and voting such rules as it deems
17 necessary and appropriate for the performance of its functions. It shall
18 annually elect a ~~chairperson, a treasurer,~~ chair and a clerk.

19 (B) Times and places of meetings of an advisory commission shall be
20 publicly posted in the municipality, and its meetings shall be open to the public

1 in accordance with the terms of the open meeting law, ~~subchapter 2 of chapter~~
2 ~~5 of Title 1~~ set forth in 1 V.S.A. chapter 5, subchapter 2.

3 * * *

4 (3) Duties and powers of historic preservation commissions. In addition
5 to the requirements set forth in subdivision (2) of this section, all historic
6 preservation commissions shall comply with all the following:

7 * * *

8 (C) Have responsibilities set forth in ~~the commission's rules of~~
9 ~~procedure~~ a written document approved by a majority vote of the local
10 legislative body at a regular or special meeting that may include:

11 (i) Preparation of reports and recommendations on standards for
12 the planning commission in creating a local historic district bylaw under this
13 chapter.

14 (ii) Advising and assisting the legislative body, planning
15 commission, and other entities on matters related to historic preservation.

16 (iii) Advising the appropriate municipal panel and administrative
17 officer in development review and enforcement pursuant to subdivision
18 ~~4414(2)(C)~~ 4414(1)(F) and section 4464 of this title.

19 (iv) If provided in the bylaw, advising and assisting the legislative
20 body, appropriate municipal panel, and administrative officer in creating and

1 administering a design review district or downtown or village center district
2 pursuant to subdivision 4414(1)(A) or ~~(B)~~(E) of this title.

3 (v) If provided in a bylaw developed in cooperation with the
4 division for historic preservation, those procedural and advisory powers
5 required of a Certified Local Government under the National Historic
6 Preservation Act.

7 (4) Powers and duties of design review commissions. In addition to the
8 requirements set forth in subdivision (2) of this section, all design review
9 commissions shall:

10 (A) To the extent possible, have among their members professionals
11 in the fields of architecture, landscape architecture, urban planning, historic
12 preservation, and related disciplines.

13 (B) Have responsibilities identified by the legislative body that may
14 include:

15 (i) Preparation of reports and standards for the planning
16 commission in creating a design review district bylaw under this chapter.

17 (ii) Advising and assisting the legislative body, planning
18 commission, and other entities on design-related matters in the creation of
19 plans and bylaws and planning for public improvements.

1 (iii) Advising appropriate municipal panels and the administrative
2 officer in development review and enforcement pursuant to subdivisions
3 4414(1)(E) and (F) and section 4464 of this title.

4 (5) Powers and duties of housing commissions. In addition to the
5 requirements set forth in subdivision (2) of this section, housing commissions
6 may have responsibilities identified by the local legislative body that include:

7 (A) Make an inventory of the current stock of housing units in the
8 municipality and identify any gaps in the housing stock according to household
9 incomes or special needs of the community. The inventory may include
10 documentation of the affordable housing cost index for an average citizen of
11 the municipality, the average cost of rental units and vacancy rates, and the
12 annual average sales price of homes.

13 (B) Review the zoning ordinances, subdivision bylaws, building
14 codes, and the development review process of the municipality, make
15 recommendations to facilitate the development of affordable housing in the
16 municipality, and promote bylaws that increase densities for the purpose of
17 providing affordable housing.

18 (C) Assist the local appropriate municipal panels pursuant to section
19 4464 of this title and the district environmental commission by providing
20 advisory testimony on the housing needs of the municipality, where pertinent
21 to applications made to those bodies, for permits for development.

1 (D) Cooperate with the local legislative body, planning commission,
2 zoning board of adjustment, road committee, or other municipal or private
3 organizations on matters affecting housing resources of the municipality. This
4 may include working with the municipality on a wastewater and water
5 allocation policy that reserves a percentage of the capacity for future affordable
6 housing.

7 (E) Collaborate with not-for-profit housing organizations,
8 government agencies, developers, and builders in pursuing options to meet the
9 housing needs of the local residents.

10 Sec. 10. 24 V.S.A. § 4460 is amended to read:

11 § 4460. APPROPRIATE MUNICIPAL PANELS

12 * * *

13 (c) In the case of an urban municipality or of a rural town where the
14 planning commission does not serve as the board of adjustment or the
15 development review board, members of the board of adjustment or the
16 development review board shall be appointed by the legislative body, the
17 number and terms of office of which shall be determined by the legislative
18 body subject to the provisions of subsection (a) of this section. The municipal
19 legislative body may appoint alternates to a planning commission, a board of
20 adjustment, or a development review board for a term to be determined by the
21 legislative body. Alternates may be assigned by the legislative body to serve

1 on the planning commission, the board of adjustment, or the development
2 review board in situations when one or more members of the board are
3 disqualified or are otherwise unable to serve. Vacancies shall be filled by the
4 legislative body for the unexpired terms and upon the expiration of such terms.
5 Each member of a board of adjustment or a development review board may be
6 removed for cause by the legislative body upon written charges and after
7 public hearing. If a development review board is created, provisions of this
8 subsection regarding removal of members of the board of adjustment shall not
9 apply.

10 * * *

11 * * * Municipal Maintenance of Highways, Bridges, and Culverts * * *

12 Sec. 11. 19 V.S.A. § 302 is amended to read:

13 § 302. CLASSIFICATION OF TOWN HIGHWAYS

14 (a) For the purposes of this section and receiving state aid, all town
15 highways shall be categorized into one or another of the following classes:

16 (1) Class 1 town highways are those town highways which form the
17 extension of a state highway route and which carry a state highway route
18 number. The ~~agency~~ Agency shall determine which highways are to be class 1
19 highways.

20 (2) Class 2 town highways are those town highways selected as the most
21 important highways in each town. As far as practicable they shall be selected

1 with the purposes of securing trunk lines of improved highways from town to
2 town and to places which by their nature have more than normal amount of
3 traffic. The ~~selectmen~~ selectboard, with the approval of the ~~agency~~ Agency,
4 shall determine which highways are to be class 2 highways.

5 (3) Class 3 town highways:

6 (A) Class 3 town highways are all traveled town highways other than
7 class 1 or 2 highways. The ~~selectmen~~ selectboard, after conference with a
8 representative of the ~~agency~~ Agency, shall determine which highways are class
9 3 town highways.

10 (B) The minimum standards for class 3 highways are a highway
11 negotiable under normal conditions all seasons of the year by a standard
12 manufactured pleasure car. This would include ~~but not be limited to~~ sufficient
13 surface and base, adequate drainage, and sufficient width capable to provide
14 winter maintenance, except that based on safety considerations for the
15 traveling public and municipal employees, the selectboard shall, by rule
16 adopted under 24 V.S.A. chapter 59, and after following the process for
17 providing notice and hearing in section 709 of this title, have authority to
18 determine whether a class 3 highway, or section of highway, should be plowed
19 and made negotiable during the winter. However, a property owner aggrieved
20 by a decision of the selectboard may appeal to the ~~transportation board~~
21 Transportation Board pursuant to subdivision 5(d)(9) of this title.

1 (b) Class 4 highways may be maintained to the extent required by the
2 necessity of the town, the public good, and the convenience of the inhabitants
3 of the town, or may be reclassified using the same procedures as for laying out
4 highways and meeting the standards set forth in section 302 of this title. The
5 selectboard shall not be responsible to maintain class 4 town highways or any
6 structure within the rights-of-way of class 4 town highways.

7 * * *

8 Sec. 13. 24 V.S.A. § 4412 is amended to read:

9 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

10 Notwithstanding any existing bylaw, the following land development
11 provisions shall apply in every municipality:

12 * * *

13 (3) Required frontage on, or access to, public roads, ~~class 4 town~~
14 ~~highways~~, or public waters. Land development may be permitted on lots that
15 do not have frontage either on a public road, ~~class 4 town highway~~, or public
16 waters, provided that access through a permanent easement or right-of-way has
17 been approved in accordance with standards and process specified in the
18 bylaws. This approval shall be pursuant to subdivision bylaws adopted in
19 accordance with section 4418 of this title, or where subdivision bylaws have
20 not been adopted or do not apply, through a process and pursuant to standards
21 defined in bylaws adopted for the purpose of assuring safe and adequate

1 access. Any permanent easement or right-of-way providing access to such a
2 road or waters shall be at least 20 feet in width.

3 * * *

4 * * * Municipal Law Enforcement Authority * * *

5 Sec. 14. 20 V.S.A. § 2358 is amended to read:

6 § 2358. MINIMUM TRAINING STANDARDS

7 (a) Unless waived by the ~~council~~ Council under standards adopted by rule,
8 and notwithstanding any statute or charter to the contrary, no person shall
9 exercise law enforcement authority:

10 (1) as a part-time law enforcement officer without completing a basic
11 training course within a time prescribed by rule of the ~~council~~
12 Council; or

13 (2) as a full-time law enforcement officer without either:

14 (A) completing a basic training course in the time and manner
15 prescribed by the ~~council~~ Council; or

16 (B) having received, before July 1, 1968, permanent full-time
17 appointment as a law enforcement officer, and completing a basic training
18 course before July 1, 1982.

19 (3) as a full or part-time law enforcement officer without completing
20 annual in-service training requirements as prescribed by the ~~council~~ Council.

1 (b) All programs required by this section shall be approved by the ~~council~~
2 Council. Completion of a program shall be established by a certificate to that
3 effect signed by the ~~executive director of the council~~ Executive Director of the
4 Council.

5 (c) ~~For the purposes of~~ As used in this section:

6 (1) "Law enforcement officer" means a member of the ~~department of~~
7 public safety Department of Public Safety who exercises law enforcement
8 powers; a member of the ~~state police,~~ State Police; a capitol police officer; a
9 municipal police officer; a constable who exercises law enforcement powers;
10 a motor vehicle inspector; an employee of the ~~department of liquor control~~
11 Department of Liquor Control who exercises law enforcement powers; an
12 investigator employed by the ~~secretary of state, board of medical practice~~
13 Secretary of State; Board of Medical Practice investigators employed by the
14 ~~department of health~~ Department of Health, ~~attorney general~~ Attorney General,
15 or a state's attorney; a fish and game warden; a sheriff, or a deputy sheriff
16 who exercises law enforcement powers; or a railroad police officer
17 commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8.

18 (2) "Full-time law enforcement officer" means a law enforcement
19 officer with duties of a predictable and continuing nature which require more
20 than 32 hours per week and more than 25 weeks per year.

1 (3) “Part-time law enforcement officer” means a law enforcement
2 officer who is not employed full time.

3 (4) “Exercise of law enforcement authority” does not include the
4 enforcement of civil municipal ordinances, except civil municipal ordinances
5 relating to the operation or use of motor vehicles which are adopted pursuant to
6 24 V.S.A. chapters 59 and 117.

7 (d) The ~~council~~ Council may determine whether a particular position is
8 full-time or part-time.

9 (e) The criteria for all minimum training standards under this section shall
10 include anti-bias training approved by the ~~Vermont criminal justice training~~
11 ~~council~~ Council.

12 * * * General Municipal Regulatory Authority * * *

13 Sec. 15. 24 V.S.A. § 2291 is amended to read:

14 § 2291. ENUMERATION OF POWERS

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

18 * * *

19 (10) To regulate the keeping of dogs, and to provide for their licensing,
20 leashing, muzzling, restraint, impoundment, and destruction.

21 * * *

1 (16) To name and rename streets and to number and renumber lots
2 pursuant to section 4463 of this title, and to require the owner of a house or
3 other building to which a number has been assigned to affix the number,
4 including the assigned 9-1-1 address, to the structure, sign, or number post so
5 that it is clearly visible from the road.

6 * * *

7 * * * EFFECTIVE DATE * * *

8 Sec. 16. EFFECTIVE DATE

9 This act shall take effect on July 1, 2013.