

The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

Title 24: Municipal And County Government

Chapter 59: Adoption And Enforcement Of Ordinances And Rules

§ 1971. Authority to adopt

(a) A municipality may adopt, amend, repeal, and enforce ordinances or rules for any purposes authorized by law.

(b) An ordinance or rule adopted or amended by a municipality under this chapter or under its municipal charter authority shall be designated as either criminal or civil, but not both. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 10, eff. March 11, 1971; 1993, No. 237 (Adj. Sess.), § 2, eff. Nov. 1, 1994.)

§ 1972. Procedure

(a)(1) The legislative body of a municipality desiring to adopt an ordinance or rule may adopt it subject to the petition set forth in section 1973 of this title and shall cause it to be entered in the minutes of the municipality and posted in at least five conspicuous places within the municipality. The legislative body shall arrange for one formal publication of the ordinance or rule or a concise summary thereof in a newspaper circulating in the municipality on a day not more than 14 days following the date when the proposed provision is so adopted. Information included in the publication shall be 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 ordinance 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 may be examined. The same notice shall explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in section 1973 of this title.

(2) Unless a petition is filed in accordance with section 1973 of this title, the ordinance or rule shall become effective 60 days after the date of its adoption, or at such time following the expiration of 60 days from the date of its adoption as is determined by the legislative body. If a petition is filed in accordance with section 1973 of this title, the taking effect of the ordinance or rule shall be governed by subsection 1973(e) of this title.

(b) All ordinances and rules adopted by a municipality shall be recorded in the records of the municipality.

(c) The procedure herein provided shall apply to the adoption of any ordinance or rule by a municipality unless another procedure is provided by charter, special law, or particular statute. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 11, eff. March 11, 1971; 1979, No. 180 (Adj. Sess.), § 1, eff. May 5, 1980; 2011, No. 155 (Adj. Sess.), § 7.)

§ 1973. Permissive referendum

(a) An ordinance or rule adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose, pursuant to a petition signed and submitted in accordance with subsection (b) of this section.

(b) A petition for a vote on the question of disapproving an ordinance or rule shall be signed by not less than five per cent of the qualified voters of the municipality, and presented to the legislative body or the clerk of the municipality within 44 days following the date of adoption of the ordinance or rule by the legislative body.

(c) When a petition is submitted in accordance with subsection (b) of this section, the legislative body shall call a special meeting within 60 days from the date of receipt of the petition, or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will disapprove the ordinance or rule.

(d) Not less than two copies of the ordinance or rule shall be posted at each polling place during the hours of voting, and copies thereof made available to voters at the polls on request. It shall be sufficient to refer to the ordinance or rule in the warning by title.

(e) If a petition for an annual or a special meeting is duly submitted in accordance with this section, to determine whether an ordinance or rule shall be disapproved by the voters of the municipality, the ordinance or rule shall take effect on the conclusion of the meeting, or at such later date as is specified in the ordinance or rule, unless a majority of the qualified voters voting on the question at the meeting vote to disapprove the ordinance or rule in which event it shall not take effect. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 12, eff. March 11, 1971.)

§ 1974. Enforcement of criminal ordinances

(a)(1) The violation of a criminal ordinance or rule adopted by a municipality under this chapter shall be a misdemeanor.

(2) The criminal ordinance or rule may provide for a fine or imprisonment, but no fine shall exceed \$800.00, nor may any term of imprisonment exceed one year.

(3) Each day the violation continues shall constitute a separate offense.

(b) The presiding judge of the Superior Court, on application of the legislative body of a municipality, shall have jurisdiction to enjoin the violation of an ordinance or rule but the election of a municipality to proceed under this subsection shall not prevent prosecutions under subsection (a) of this section.

(c) Prosecutions of criminal ordinances shall be brought before the Superior Court pursuant to 4 V.S.A. § 32.

(d) Prosecutions of criminal ordinances may be brought on behalf of the municipality by the municipal attorney or other person designated by the legislative body of the municipality. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1993, No. 237 (Adj. Sess.), § 3, eff. Nov. 1, 1994; 2009, No. 154 (Adj. Sess.), § 182; 2017, No. 74, § 95; 2017, No. 93 (Adj. Sess.), § 20; 2017, No. 130 (Adj. Sess.), § 14.)

§ 1974a. Enforcement of civil ordinance violations

(a) A civil penalty of not more than \$800.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.

(b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is \$800.00 or less, shall be brought before the Judicial Bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than \$800.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in the Criminal Division of the Superior Court, unless the matter relates to enforcement under chapter 117 of this title, in which instance the action shall be brought in the Environmental Division of the Superior Court.

(c) The Judicial Bureau, on application of a municipality, may order that a civil ordinance violation cease.

(d) Civil enforcement of municipal zoning violations may be brought as a civil ordinance violation pursuant to this section or in an enforcement action pursuant to the requirements of chapter 117 of this title.

(e)(1) When filed in court as an enforcement action by the municipality, municipal parking violations shall be brought as civil violations. The right to trial by jury shall not apply in such cases.

(2) A person who received a criminal conviction in District Court for a municipal parking violation committed before January 1, 2005 may petition the court to seal all records in the matter. The person shall provide a copy of the petition to the State or municipal official who was the prosecuting authority on the matter in District Court. The court shall grant the petition if, after providing the prosecuting authority with an opportunity to respond, the court finds that sealing the records would serve the interests of justice. (Added 1993, No. 237 (Adj. Sess.), § 4, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 17; 2003, No. 115 (Adj. Sess.), § 77, eff. Jan. 1, 2005; 2003, No. 146 (Adj. Sess.), § 5, eff. Jan. 1, 2005; 2009, No. 154 (Adj. Sess.), § 236; 2011, No. 155 (Adj. Sess.), § 2.)

§ 1975. Evidence of adoption

A certificate of the clerk of a municipality showing the publication, posting, recording, and adoption of an ordinance or rule, or any of the foregoing, shall be presumptive evidence of the facts so stated in any action or proceeding in court or before any board, commission, or other tribunal. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 13, eff. March 11, 1971.)

§ 1976. Amendments and repeals

An ordinance or rule adopted in accordance with the procedures provided for in this chapter may be amended or repealed in accordance with the procedure herein set forth relating to adoption of ordinances and rules, and the provisions of this chapter, including the right of petition and referendum contained in section 1973 of this title, shall apply to the amendment or repeal of an ordinance or rule adopted under this chapter as well as to its enactment. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970.)

§ 1977. Complaint for municipal civil ordinance violations

(a) The complaint in a municipal civil case shall be signed by the issuing municipal official. The original copy shall be filed with the Judicial Bureau, a copy shall be retained by the issuing municipal official, and two copies shall be given to the defendant.

(b) The municipal official may void or amend the municipal complaint issued by that official by so marking the complaint and sending it to the Judicial Bureau.

(c) The Court Administrator shall approve an appropriate summons and complaint form, pursuant to 4 V.S.A. § 1105(a), to implement the assessment of the full and waiver penalty provisions of this section. (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 18; 1999, No. 58, § 4, eff. Sept. 1, 1999; 1999, No. 160 (Adj. Sess.), § 28.)

§ 1978. Repealed. 1997, No. 121 (Adj. Sess.), § 39(6).

§ 1979. Procedure

(a) Municipal ordinance violations shall be heard by the Bureau and the procedure shall be as provided in 4 V.S.A. chapter 29.

(b) At the hearing, the municipal attorney or designee of the legislative body of the municipality may dismiss or amend the complaint, subject to the approval of the hearing officer.

(c) Upon entry of default judgment pursuant to 4 V.S.A. § 1105(f), the hearing officer shall assess the full penalty provided for in the ordinance that was found to have been violated.

(d) Upon entry of judgment against the defendant after a contested hearing, the hearing officer shall assess a civil penalty in an amount not less than the waiver penalty and not more than the full penalty provided for in the ordinance that was found to have been violated. (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 19; 1999, No. 58, § 5, eff. Sept. 1, 1999; 2017, No. 93 (Adj. Sess.), § 21.)

§ 1980. Repealed. 1997, No. 121 (Adj. Sess.), § 39(7).

§ 1981. Enforcement of order from Judicial Bureau

(a) Upon entry of a judgment after hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.

(b) In addition to any other civil remedies available by law, a final judgment of the Judicial Bureau that has not been satisfied within 30 days shall, upon due recordation in the land records of the town in which any real or personal property of the defendant is located, constitute a lien upon that real or personal property, except for motor vehicles as defined by 23 V.S.A. § 4(21), and may be enforced within the time and in the manner provided for the collection of taxes pursuant to 32 V.S.A. chapter 133, subchapter 8.

(c) The remedies of civil contempt and referral to a collections agency for failure to pay a Judicial Bureau judgment under this section shall be as provided in 4 V.S.A. § 1109(c) and (d). (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 20; 1997, No. 122 (Adj. Sess.), § 1; 1999, No. 58, § 6; 2003, No. 62, § 3; see effective date note below; 2009, No. 154 (Adj. Sess.), § 238; 2011, No. 83 (Adj. Sess.), § 1.)

§ 1982. Reports

The Court Administrator shall prepare audits, records, and reports relating to the enforcement of municipal ordinance complaints in the Judicial Bureau. (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 21.)

§ 1983. Identification to law enforcement officers required

(a) A law enforcement officer is authorized to detain a person if:

- (1) the officer has reasonable grounds to believe the person has violated a municipal ordinance; and
- (2) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(b) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a Criminal Division of the Superior Court judge for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122. (Added 1997, No. 122 (Adj. Sess.), § 2; amended 2009, No. 154 (Adj. Sess.), § 238; 2013, No. 194 (Adj. Sess.), § 14, eff. June 17, 2014.)

[Section 1984 effective until July 1, 2019; see also section 1984 effective July 1, 2019 .]

§ 1984. Conflict of interest prohibition

(a)(1) A town, city, or incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, may adopt a conflict of interest prohibition for its elected and appointed officials, which shall contain:

- (1) A definition of "conflict of interest."
- (2) A list of the elected and appointed officials covered by such prohibition.
- (3) A method to determine whether a conflict of interest exists.
- (4) Actions that must be taken if a conflict of interest is determined to exist.
- (5) A method of enforcement against individuals violating such prohibition.

(b) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a prohibition adopted under this section, "conflict of interest" means a direct personal or pecuniary interest of a public official, or the official's spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed. "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision. (Added 1999, No. 82 (Adj. Sess.), § 2.)

[Section 1984 effective July 1, 2019; see also section 1984 effective until July 1, 2019 .]

§ 1984. Conflict of interest prohibition

(a)(1) Each town, city, and incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, shall adopt a conflict of interest prohibition for its elected and appointed officials, which shall contain:

- (A) A definition of "conflict of interest."
- (B) A list of the elected and appointed officials covered by such prohibition.
- (C) A method to determine whether a conflict of interest exists.
- (D) Actions that must be taken if a conflict of interest is determined to exist.
- (E) A method of enforcement against individuals violating such prohibition.

(2) The requirement set forth in subdivision (1) of this subsection shall not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the municipality has established a conflict of interest policy that is in substantial compliance with subdivision (1).

(b)(1) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a prohibition adopted under this section, "conflict of interest" means a direct personal or pecuniary interest of a public official, or the official's spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed.

(2) "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision. (Added 1999, No. 82 (Adj. Sess.), § 2; amended 2017, No. 79, § 14, eff. July 1, 2019.)