TOWN OF BERLIN

TOWN CHARTER

Part I

ADMINISTRATIVE CODE

Part II

TOWN ORDINANCES

Part III

TOWN POLICIES

Part IV

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PREFACE

The Town of Berlin has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws in the light of current trends must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date.

This book is arranged:

PART I-Town Charter
PART II-Administrative Code
PART III-Town Ordinances
PART IV-Town Policies

The Table of Contents details the alphabetical arrangement of materials in Parts III & IV, by chapter as a means of identifying specific areas of legislation.

Reserved Chapters Space has been provided for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled “(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters. Pagination, A unique page-numbering system has been used, in which each chapter forms an autonomous unit: One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by-the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 25 on page 2501, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

Part I

Town Charter

TOWN OF BERLIN

CHARTER

SUBCHAPTER 1.

STATEMENT OF PURPOSE

§ 1. *Statement of Purpose*

Under the authority granted by the General Assembly of the State of Vermont, this charter establishes certain guidelines with respect to organization and functioning of local Town government in the Town of Berlin, Vermont.

SUBCHAPTER 2.

SCOPE

§ 2-1 *Scope*

In pertinent part, this charter provides the following subchapters:

3. General Provisions

4. Town Officers

5. Conflict of Interest

6. Vacancies in elected and appointed offices

7. Special Procedures

8. Removal of elected or appointed officers

9. The adoption of an Administrative Code

10. The separability of any charter section or its parts

11. Procedure for the amendment of this charter

SUBCHAPTER 3.

GENERAL PROVISIONS

§ 3-1. *General law; application*

Except when changed by the provisions of this charter, all provisions of the statutes of the State of Vermont relating to municipalities shall apply to the Town of Berlin.

§ 3-2 Powers of the Town

(a) The Town of Berlin, shall have all the powers granted to towns and municipal corporations by the Constitution and laws of this State and this charter, together with all the implied powers necessary to carry into execution all the powers granted. The Town of Berlin may enact ordinances not inconsistent with the Constitution and laws of the State of Vermont or with this charter, and impose penalties for violation thereof.

(b) The Town may acquire real property within or without is corporate limits necessary or convenient for any lawful purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or otherwise consistent with the Constitution and laws of the State of Vermont, and may sell, lease, mortgage, hold, manage and control such property as its interest may require consistent with the Constitution and laws of the State by vote of a majority of the voters present and voting at a duly warned meeting. Once the voters have approved the sale, lease, or mortgage of property of the Town of Berlin, the Selectboard shall have the full authority to sign all conveyances and legal documents in the name of the Town to complete the transaction.

(c) In this charter, no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the Town would have if the particular powers were not mentioned, unless this charter otherwise provides.

§ 3-3 Reservation of powers to the Town

Nothing in this charter shall be construed to in any way limit the powers and functions conferred on the Town of Berlin, the Selectboard of said Town, or its elected and appointed officials by general or special enactments of State statutes or regulations in force or effect or hereafter enacted, and the powers and functions conferred by this charter shall be cumulative and in addition to the provisions of such general or special enactments unless this charter otherwise provides.

§ 3-4 Open Meetings

Meetings of all Town boards and commissions shall be open and held in accordance with the general law of this state relating to public meetings. The record of all official proceedings shall be available for public inspection and copying as provided by the general law of this State.

SUBCHAPTER 4.

TOWN OFFICERS

§ 4-1 *Generally*

The Officers of the Town of Berlin shall be those provided by law for towns, except as otherwise provided by this charter. Such officers shall have all the powers and duties necessary to carry out the provisions of this charter as well as those provided by law and the administrative code.

§ 4-2 Elected Officers

The following officers of the Town and such other Town officers as are provided by law and previous vote of the electorate as to number, length of term, and manner of election at an annual meeting shall be elected by Australian ballot, unless otherwise stated, and shall include the following:

(1) a Moderator to be elected from the floor, for a term of one year;

(2) a Town Clerk, for a term of three years;

(3) Selectboard members, three of whom shall serve staggered three year terms and two of whom shall serve one year terms;

(4) other Town officers as the Town shall order as provided by law.

§ 4-3 Incompatible officers

No Town officer shall hold incompatible Town offices as provided by law or this charter.

§ 4-4 Appointed officers

(a) The Selectboard may appoint, recommend, or approve the appointment of the following Town officers, for a term of one year from the date of such appointment, unless

otherwise specified below, following such notice and warning as required by this charter and the administrative code, to include the following:

(1) Tree Warden;

(2) Emergency Management Director;

(3) Fire Warden, for a term of five years;

(4) Health Officer;

(5) Members of the Town Planning Commission, for terms of four years;

(6) Members and alternates of the Development Review Board, for terms of four years.

(7) Cemetery Commissioners, for terms of three years;

(8) Members of the Recreation Board, for terms of three years;

(9) Members of the Public Works Board, for terms of three years;

(10) Members of the Conservation Commission, for terms of three years;

(11) Editor of the Town Report;

(12) Such other Town officers or municipal appointments that may be necessary as provided by law or otherwise authorized by this charter for orderly and expeditious operations of Town government.

(b) The Selectboard shall appoint, recommend, or approve as applicable, the appointment of the following officers who will serve at the pleasure of the Selectboard, following the notice and warning as required by this charter and the administrative code.

(1) Town Administrator.

(2) Assistant Town Administrator.

(3) Treasurer.

(4) Collector of Delinquent Taxes.

(5) Road Superintendent.

(6) Police Chief.

(7) Zoning Administrator.

(8) Assistant Zoning Administrator.

(9) Assessor or Assessing Services.

(10) Administrative Assistant to Public Works Board

(c) The duties and responsibilities of the Grand Juror shall be assigned to the Police Chief.

(d) All appointed Town Officers shall be governed by the Town personnel policy.

§ 4-5 Alternate Town Officers

The Selectboard is authorized to appoint people to serve as alternate Town Officers in anticipation of disqualification or unavailability, as needed.

§ 4-6 Relationship between and among Town Officers

All Town officers whether elected or appointed shall exercise their duties and responsibilities independently unless otherwise provided by law.

SUBCHAPTER 5.

CONFLICT OF INTEREST

§ 5-1 General prohibition

No elected or appointed Town Officer or employee of the Town shall be beneficially interested in any matter requiring the discharge of his or her public office. The purpose of this subchapter is to prohibit the use of public office for financial or other advantage, whether direct or indirect, or by any means or methods whatsoever.

§ 5-2 Specific Conflicts

A Town officer (member) shall be disqualified from any proceeding in which his or her impartiality might reasonably be questioned as defined in the administrative code.

SUBCHAPTER 6.

VACANCIES IN ELECTED AND APPOINTED OFFICES; NOTICE OF

§ 6-1 Notice of vacancy during unexpired term

In order to inform citizens of the Town and to afford them the opportunity to participate or serve in Town government, public notice shall be given of municipal vacancies resulting from resignation, death, disability, or change of residence from the Town of a Town officer on any

board, commission, or committee or in other public office whether elected or appointed. Such notice shall be made as defined in the administrative code.

SUBCHAPTER 7.

SPECIAL PROCEDURES

§ 7-1 Public Meetings, Agendas

All public meetings of any board, commission, or committee within the Town shall be held pursuant to a written agenda containing therein the specific agenda items to be acted upon. The posting and publishing of the agendas shall be in accordance with general law and the administrative code. In the event that the general law is silent on such matters, agendas shall at a minimum be posted in the Town Clerk's office. Except in emergencies, the same defined as a direct or immediate threat to the public's health, safety, or welfare, the board, commission, or committee shall not take action on matters other than those agenda items specifically set forth in the written agenda.

§ 7-2 Ordinances

(a) Town legislation shall be by ordinance. The Selectboard shall have the power to adopt, amend, repeal, and revise ordinances, and provide for their enforcement as provided by law. The procedures regarding the adoption, amendment, repeal, or revision of ordinances shall be as provided by law and the administrative code.

(b) Ordinances adopted by the Selectboard shall be subject to rescission by vote at a special or annual Town meeting pursuant to the applicable provisions of general law.

(c) The Town of Berlin shall have the power to adopt ordinances to regulate the cleanup of hazardous materials and to impose penalties or take other actions to regulate or prevent false fire and police alarms.

(d) The Town may adopt and enforce ordinances for the purpose of regulating, licensing, and fixing reasonable and necessary license fees for the following:

1. places of public resort, accommodation, assemblage, or amusement whether indoor or outdoor;

2. places dispensing food and drink to the public, such as restaurants, bars, or inns;

3. theaters;

4. displays of fireworks;

5. public dances and musical performances;

6. mobile home parks;

7. itinerant vendors;

8. the exclusive occupancy of any specified portion of a public street or right-of-way;

9. the keeping of dogs or other pets;

10. other activities which the town has the power to regulate or license by virtue of general law or this charter.

§ 7-3 Penalty for Delinquent Installments

(a) If the Town of Berlin adopts the installment system of taxes, the Town may vote to collect a penalty for delinquent installment payments of property taxes. The vote shall be by Australian ballot and once enacted shall remain in effect until rescinded by a similar vote. Penalties shall not exceed those allowed by law.

(b) When the collection of a delinquent property tax, sewer or water use charge, interest and penalty, or any combination thereof would create an undue expense for the Town, the Treasurer may, after approval of the Selectboard, forgive any delinquent amounts due when the amount is less than $5.00.

SUBCHAPTER 8.

REMOVAL OF ELECTED TOWN OFFICERS FROM MUNICIPAL OFFICE

§ 8-1 Removal

Any elected Town officer may be removed from office subject to the following conditions and procedures as provided by general law and the administrative code.

SUBCHAPTER 9.

ADMINISTRATIVE CODE

§ 9-1 Governance

(a) An administrative code shall be written and approved by the Selectboard.

(b) Decisions of the Town of Berlin shall be made using the administrative code, this charter, Town ordinances, and Town policies.

(c)The sole and exclusive body authorized to make decisions relating to issues of statewide or national interest, including positions on pending legislation, shall be the voters of the Town at Town meeting.

SUBCHAPTER 10.

SEPARABILITY

§ 10-1 Separability

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of this charter and its provisions to other person or circumstances shall be affected thereby.

SUBCHAPTER 11

AMENDMENT

§ 11-1 Amendment

The amendment of this charter shall be as provided by law.

PART II

ADMINISTRATIVE CODE

Town of Berlin, Vermont, Vermont

Administrative Code

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Adopted on June 19, 2017

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Section 10 Changes to Administrative Code

Town of Berlin, Vermont

Administrative Code

Section 1:

Preface

The administrative code shall serve as a major policy document and operations guide in conjunction with the charter of the Town of Berlin, Vermont. The code is to act as an extension to the Town charter to provide further detail. The administrative code does not provide for any additional authority above that which is provided by Town charter or state statute. It is a guide for effective management and operation of the town. The document will be updated as necessary to be consistent with the Charter, town policies or Vermont state statutes.

Section 2:

Elected Officers

Moderator

The moderator is the impartial guide of town meeting and is limited to deciding procedural questions and perform other non-legal functions such as making a public declaration of votes.

Town Clerk

- Record and file official minutes and documents of town Boards, Commissions and Committees.
- Serve as an election official in accordance with existing statutes; arrange elections and maintain election records.
- Obtain, maintain and report all vital statistics on births, marriages and deaths. Maintain town contracts, bonds, and oaths of office and property transfers.
- Ensure disposition of town records and documents under its jurisdiction in accordance with 24 V.S.A.

Selectboard

- Set policies for the Town
- Insure that adequate mechanisms are in place, and have overall monitoring for the efficient operation of Town functions and services.
- Select and appoint individuals to serve as Town Officers, employees, on Town Boards, Commissions and Committees.
- All functions specified in Vermont State Statutes

Section 3:

Appointed Officers

Appointed Officers serve at the pleasure of and are appointed by the Selectboard. The term is indefinite until terminated by resignation or other.

Town Administrator

- Supervision of the administrative affairs of the town.
- Insure town policies and directives of the Selectboard are carried out..
- Liaison to coordinate information between Selectboard and Town Boards.
- Represents the Selectboard on site or at Public Meetings

Assistant Town Administrator

- To serve in the absence of the Town Administrator
- Process and oversee zoning applications, assist land boards and attend related meetings as required.
- Work with contractors, water operators and staff to achieve goals and results.
- Maintain Land Use Board records.

Treasurer

- Carry out payment orders by the Selectboard.
- Post receipts and record disbursements
- Coordinate and participant in the Town audit
- Maintain general financial and proprietary funds.

Collector of Delinquent Taxes

- Collection of delinquent taxes
- Prepare and mail out delinquent tax notices
- Prepare for and work with attorney on tax sales
- Maintain an up to date listing of overdue taxes

Road Superintendent

- Oversee and direct town roads, culverts and bridges
- Insure the acquisition and maintenance of necessary equipment and supplies
- Plan future town road maintenance needs
- Maintain records on Town Roads

Police Chief

- Oversee and adhere to Police Department Operating Procedures and state laws
- Provide adequate staffing and oversight for all Police Department personnel
- Maintain peace and order
- Act as Grand Juror

Zoning Administrator

- Work with contractors, developers and citizens to ensure compliance with zoning regulations and to schedule meetings with land use boards.
- Act as professional support for land use boards
- Take appropriate action to cure zoning violations
- Maintain zoning files

Assistant Zoning Administrator

- To act as back up to Zoning Administrator
- Provide staff support-research services
- Conduct site visits when needed
- Maintain records and files

Assessor or Assessing Services

- Carry out the collection of information and taking inventory of taxable property.
- Prepare Grand List annually
- Update tax maps to reflect property and lot changes
- Address inquiries from taxpayers

Administrative Assistant to the Public Works Board

- Prepare materials and clerical services for the Board.
- Work with Water and Sewer Operators and coordinate information to Board
- Prepare quarterly billing for customers
- Assist with special projects

Town Attorney

- To assist in legal matters
- Prosecute and defend all suits in which the Town has interest.

Section 4:

Conflict of Elected and Appointed Officials

A Town Officer who is disqualified by virtue of a conflict of interest shall not vote upon, participate in the discussion of, or otherwise sit as a member of any board, commission or committee upon the matter from which he/she is disqualified. He/she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding.

Appointment of Alternate Officers

The Selectboard may appoint an alternate Town Officer to serve in place of an officer who has recused himself/herself or has been disqualified.

Specific Conflicts

1. The Town Officer or a near relative or business associate has a property or financial interest which might be substantially affected, favorable or adversely, by the decision of the board, commission, of which the Town Officer is a member;

2. The Town Officer has a personal bias or prejudice toward any party; or

3. The Town Officer has previously expressed an opinion as to the proper disposition of a specific case or controversy involving the exercise of his or her discretion while acting in a quasi judicial capacity, such as serving on the Development Review Board on permits and appeals or as a member of the Selectboard acting to lay out, alter, reclassify of discontinued Town highways.

Specific Prohibition

A Town officer who is disqualified by virtue of a conflict of interest shall not vote upon or participate in the discussion of, or otherwise sit as a member of any boards, commission, or committee upon the matter from which he/she is disqualified. He/she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding.

Announcing a Conflict

A Town officer who is disqualified by virtue of a conflict of interest shall not vote upon participate in the discussion of, or otherwise sit as a member of any board, commission, or committee upon the matter from which he/she is disqualified. He/she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding.

Announcing a Conflict

If a Town officer recognizes that he/she might have a conflict of interest, or if another person raises an objection to the participation of any Town Officer, he/she shall state the nature of the

conflict as soon as may be possible and the Town officer shall thereupon disqualify himself/herself from further participation if there is a conflict of interest.

Determination of Conflict by other than the Town Officer

If a question of a member's disqualification as discussed within the section is brought to the attention of any board, commission, or committee by any party or person or by another board, commission, or committee member, and the member does not disqualify himself/herself, the board, commission, or committee shall consider the factual basis for the question and shall decide the matter by majority vote, the challenged member abstaining before any other business is conducted. A formal vote shall be taken on every question of a conflict. Once the vote is taken, the board, commission and committee shall return to the business before it, and no further time shall be made in the minutes of the meeting.

Section 5:

Notice of Vacancies on Boards, Commissions and Committees

A notice of vacancy will be posted in the Town Clerk's office and two other public places in Town at least 10 days prior to the meeting at which the appointing authority intends to fill the vacancy.

Such notice shall provide for the right of any interested citizen to submit a written application to the appointing authority regarding such vacancy and to be personally interviewed by the appointing authority, if requested by the applicant, prior to the vacancy on said board, commission or committee as provided by law.

At least 10 days before the end of the term of an appointed Town officer, the Selectboard shall post notice of this fact in the Town Clerk's office and two other public places in the town giving a brief description of the duties of the position and inviting interested persons to apply.

Section 6:

Notice of Public Meetings

Agendas of meetings will be posted as per State Statute, 48 hours in advance of a "Regular meeting and 24 hours in advance of a "Special Meeting". Meetings will be posted on the Town Bulletin Board in the foyer of the municipal building, at Maplewood Travel Center, 159 Paine Turnpike North, at Shaw's Supermarket, 160 Paine Turnpike North, at the Riverton Fire Station 2095 Vt. Rt. 12, at Berlin Elementary School 372 Paine Turnpike North and on the Town's website www.berlinvt.org

Section 7:

Ordinances

Ordinances or amendments to ordinances will be adopted by the Selectboard at a regular or special duly noticed meeting. To adopt or amend it must have a majority vote in the affirmative

and be reflected in the minutes of the meeting. After adoption the ordinance or amendment will be posted at the Town Bulletin Board in the foyer of the municipal building, at Maplewood Vermont Travels Service Center, 159 Paine Turnpike North; Shaw's Supermarket, 160 Paine Turnpike North; at the Riverton Fire Station 2095 Vt. Rt. 12; Berlin Elementary School, 372 Paine Turnpike North; and on the Town's website www.berlinvt.org and the Times Argus Newspaper. After 60 days as per statute the ordinance will be effective unless it is rescinded.A Public Hearing at a regular or special duly noticed meeting will be held to gather public input for repeal of ordinances. Following the Public Hearing the Selectboard will vote on the proposal to repeal the ordinance.

Book of Ordinances

A complete copy of Town ordinances will be prepared and updated as necessary by the Selectboard or its designee. The book of ordinances shall be indexed by subject matter and shall contain all ordinances, amended, repealed or revised by the Selectboard or voters of the Town. Additions, updates or rescinded ordinances will be updated and maintained in the Book of Ordinances by the Town Administrator. The official copy of this book will be on file in the Town Clerk's Office. This book will also include a copy of the charter and the administrative code.

Section 8:

Removal from Office

Upon receipt of a written petition in the Town Clerk's office signed by not less than 30 percent of the registered voters of the Town seeking removal of a Town Officer. There will be a special town meeting within 45 days after the filing of such petition for the purpose of voting by Australian ballot on such Town Officer's removal.

If two thirds of the votes cast by Australian ballot at said special town meeting result in an affirmative vote to remove such Town officer, such Town officer shall cease to hold that office and the office will be considered to be vacant.

Only one petition for removal may be filed against any given Town officer during any 12 month period of his/her term of office.

Section 9:

Governance

The Selectboard shall have sole and exclusive authority to make decisions affecting:

- Construction and Maintenance of highways
- Personnel
- Proposed budgets
- Use of space within municipal buildings and other property

- Short term borrowing

The Public Works Board shall have sole and exclusive authority to make decisions affecting:

- Overall supervision of the Water and Sewer Divisions
- Ensure proper staffing for day to day operations
- Prepare an annual budget to adequately operate
- Adopt and set water and sewer rates

Section 10:

Changes to the Administrative Code

Changes to the Administrative Code will be made by the Selectboard as needed. Any changes will require two public hearings prior to any change and must be in accordance to Vermont State Statutes and the Town of Berlin charter.

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Part III

Town Ordinances

Amusement Ordinance

§ 3

ORDINANCE RESCINDED BY SELECTBOARD

June 20, 2016

ANIMAL CONTROL ORDINANCE

§ 4

The Selectboard of the Town of Berlin hereby adopts the following Animal Control Ordinance, pursuant to the provisions of 24 V.S.A. §§ 1971, 2291(10), 2291(53) and 20 V.S.A. §3449. This ordinance is hereby designed a civil ordinance.

4 §1-Purpose

The purpose of this Ordinance is to protect the comfort, health, repose, property, safety, and general welfare of citizens of the Town of Berlin. In order to accomplish the foregoing purpose, it is deemed necessary to establish a mechanism of review, provide for procedures for enforcement and appeal, and establish penalties for violations of this Ordinance.

4 §2-Duty of Maintenance of Property and Control of Animals

No person owning, leasing, occupying or having control of any premises in the Town of Berlin and no person owning, keeping, harboring, or maintaining any animal shall allow such premises or animal(s) to become or remain a public nuisance as herein defined.

4 §3-Definitions

1. Public Nuisance Defined-Any continuing or often repeated act, omission, condition or conduct which endangers life, health, or property or which unreasonably annoys, injures, or disturbs, or intrudes upon the free use and comfortable enjoyment of private and public lands in the Town of Berlin, provided, however, such nuisance is specifically enumerated and define in subsection (2) of this section.
2. Enumeration of Nuisances
   A. Animal Nuisances-Animals are hereby declared a public nuisance under the following circumstances or conditions:
      1. An animal that repeatedly disturbs the rights of, threatens the safety of, or injures a member of the general public, or substantially interferes with the ordinary use and enjoyment of their property.
      2. An animal repeatedly allowed or permitted to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damage to gardens, flowers or vegetables, or defecating upon the property of another, or injury to or worrying domestic animals and pets;
      3. Animals maintained in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare, or safety or which substantially increases the probability of transmission of disease;

4. Property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type variety, density or location of the animals on the property.
5. An animal repeatedly, continuously, or habitually allowed to permitted to bark, whine, howl, crow, cackle, or make loud noises in an excessive, continuous, or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises;
6. An animal that is diseased and dangerous to the public health.
7. An animal that habitually or repeatedly chases, snaps at, attacks, or barks in a threatening manner at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles.
8. An animal kept or maintained contrary to the conditions of a lawful order issued by the Selectboard under §8 of this ordinance.

3. Animal Control Officer-shall mean the person or persons appointed by the Selectboard to police and enforce this Ordinance in cooperation with the appropriate law enforcement agencies and shall include, without limitation, sworn officers of the Town of Berlin Police Department.
4. Dog-Shall mean any animal of the canine species.
5. Owner-Shall mean any person or group of persons who owns or harbors a dog or permits any dog to be or remain in or about buildings or premises owned or occupied by such person(s).'

4 §4 Licensing of Dogs

It shall be the duty of every person owning, keeping or harboring any dog over six (6) month of age, within the Town of Berlin, to procure a license therefore in accordance with V.S.A. 20 §20 as amended.

4 §5 Animal Control Officer Duties

The Selectboard shall designate a person to act as Animal Control Officer to enforce the provisions of this Ordinance. It shall be the duty of the Animal Control Officer, or his or her authorized designee, to investigate complaint of animal nuisances and to enforce the provisions of this Ordinance. The Selectboard shall also designate the names of persons and their locations to receive animals for confinement under the terms of this Ordinance.

4 §6 General Violation

Any animal allowed to become or remain a public nuisance as herein defined shall constitute a violation of this Ordinance and may be impounded. The owner of any animal impounded, if such owner can be identified, shall be guilty of a violation of the Ordinance and subject to the penalties hereinafter provided.

4 §7 Enforcement

1. The Animal Control Officer may seize or impound any animal which constitutes a public nuisance in violation of this Ordinance if such nuisance, condition or act occurs in the presence of the officer. The Animal Control Officer shall notify the owner or keeper of such animal, if known, of the location where and the person with whom the animal is confined. If an animal so confined is a licensed dog, the Animal Control Officer shall forthwith give notice in writing to the owner at his last known address, by certified mail with return receipt requested, stating that the dog may be reclaimed within six (6) business days from the mailing of said notice. If the dog is not claimed, the dog shall be disposed of in a humane manner. The owner shall be liable for all costs incurred by the Town of seizure, impoundment or disposal costs.
2. If an unlicensed dog is impounded by virtue of this Ordinance, the Animal Control Officer shall confine such dog for up to six (6) business days. If, after six business days it has been impossible to determine the owner of such dog, the dog shall be disposed of in a humane manner. If the owner of an unlicensed dog is located and the owner wishes to reclaim the dog, the Animal Control Officer shall not release the dog until all required licenses have been obtained and evidence of anti-rabies inoculation is shown. The owner shall also pay to the Town a fee of $24.00 plus all charges incurred by the Town of the impoundment of the dog. If the dog has been disposed of, the owner shall be liable for all costs incurred by the Town for such impoundment and disposal.

3. In addition to or in lieu of impounding an animal found to be a nuisance animal as defined in §2 of this Ordinance, the Animal Control Officer may issue to the known animal owner a Notice of Complaint. A copy of the Notice of Complaint shall be filed with the Selectboard. The Selectboard shall proceed with a hearing in accordance with §8 of this Ordinance.
4. In the event of failure to pay any fine assessed or the filing of an appeal therefore in a timely manner, the Town Attorney or other designed office of the Town may initiate an action of enforcement of civil ordinance violations before the Traffic and Municipal Ordinance Bureau, and upon establishment of a violation of this Ordinance, the owner shall be fined not less than $40.00 and no more than $400.00. Each day a violation continues shall constituent a separate violation. Upon application by the Town, the Traffic and Municipal Ordinance Bureau may also order that any continuing violation cease. In addition to or in lieu of an action before the Traffic and Municipal Ordinance Bureau, the Town my file an appropriate civil action in Superior Court.
5. The Animal Control Officer is hereby authorized and empowered to enter onto private lands, seize and impound animals and take all reasonable and necessary measures to abate public nuisances which shall occur in his or her presence,

4 §8 Procedure for Complaints and Action

A. The Animal Control Officer, in accordance with §4, or three legal residents of the Town not satisfied with the action of the Animal Control Officer, who upon knowledge that an animal constitutes a public nuisance under this Ordinance may file a written compla9int with the Selectboard. The complaint shall contain the names and

addresses of the three complaining residents, the nature and basis of the complaint, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation required by subsection (1)(b) of this section.

B. The Selectboard, within twenty-one (21) days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner or keeper of the animal which is the subject of the complaint can be ascertained with due diligence, said owner or keeper shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint.

C. After hearing, if the animal is found to be a nuisance under this ordinance, the Selectboard may make findings of fact and such order for the abatement of such nuisance as the facts and circumstances of the case may require, including, without limitation, that the animal be disposed of in a humane way, muzzled, chained, or confined, and the owner or keeper of such animal may be assessed damages and/or a fine not to exceed $400.00. The order shall be sent by certified mail, return receipt requested, or served personally upon the owner or keeper of the animal.

4 §9 Appeals

1. Actions of the Animal Control Officer
   a. Any owner or keeper of an animal found to be in violation of this ordinance by the Animal Control Officer may appeal to the Selectboard any action, findings, impoundment charges, or boarding fees by filing written notification to the Town Clerk within seven (7) business days following the payment of any such charges, fees or fines.
   b. The Selectboard shall convene a hearing on the appeal in accordance with the procedure under §8 of the ordinance. The Selectboard, after notice and hearing, may determine to affirm or reverse any or all findings, actions, charges, fees or fines, and may direct the Town Treasurer to return any amounts paid as deemed appropriate.
2. Actions of the Selectboard
   a. Any owner of keeper of any animal found to be in violation of this ordinance may appeal any decision, order, action or finding of the Selectboard to the Washington County Superior Court. Any appeal from the decision of the Selectboard under this ordinance shall be filed within thirty (30) days of the rendering of such decision.

4 § 10 Savings

Nothing herein shall be construed to limit, supersede, repeal or annul any other law, ordinance, or regulation related to nuisances generally or to animals, including dogs, in particular.

4 § 11 Separability

Each separate provision of the ordinance shall be deemed independent of all other provisions of the ordinance, and if any provision of this ordinance shall be declared invalid in a court of law, all other provisions of the ordinance shall remain valid and enforceable.

Adopted at a regular meeting of the Town of Berlin Selectboard, duly warned for such purpose, this 21st day of September, 1998.

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§8

REGULATING THE DISPOSAL OF SOLID WASTE THROUGH OPEN BURNING AND INCINERATION

WHEREAS, The Town of Berlin has, by virtue of the authority granted in 24 VSA 1971 and 24 VSA, 2202a the power to adopt, amend, repeal, and enforce ordinances, and to manage and regulate the solid waste disposal within its boundaries; and

WHEREAS, the Town of Berlin has determined that disposal of solid waste through open burning incineration practices prohibited by this Ordinance constitute public nuisances, and the Town of Berlin has the authority to regulate and prohibit such practices by virtue of the authority granted in 24 VSA. 2291 (53);

NOW THEREFORE, to protect public health and safety and to promote the responsible use of resources and protection of the environment, the Selectboard of the Town of Berlin hereby adopts this ordinance to regulate the open burning and incineration of solid waster in the Town of Berlin, Vermont.

§ 8-1
PURPOSE

Purpose: This ordinance is enacted to promote the health, safety and general welfare of the inhabitants of the Town of Berlin and to protect Solid Waste disposal practices that pose a danger to the public health and welfare of the environment or constitute a public nuisance.

Title: This ordinance shall be known and may be cited as the "Ordinance Regulating the Disposal of Solid Waste Through Open Burning and Incineration."

§8-2
DEFINITIONS

(a) "Construction/Demolition Debris" means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures.

(b) "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.

(c) "Hazardous Waste" means waste that is identified as hazardous in, and regulated by, the Vermont Hazardous Waste Management Regulations including, but not limited to, waste that contains toxic, corrosive, reactive, or explosive, or flammable ingredients.

(d) "Natural wood" means any of the following, provided such material has not been treated or injected with preservations, paint or oil;

1. Trees and brush, including logs, boles, trunks, branches, limbs, roots and stumps;

2. Lumber, including timber, logs, dimensional lumber or slabs dressed for use;
3. Pallets and skids

This definition does not include processed wood products such as plywood, particle board, fiber board, and press board.

(e) "Non-woody vegetation" means leaves, grass, yard trimmings, and other organic materials.
(f) "Open burning" means any burning in the open or in an open container, including but not limited to a brush pile or a burn barrel, where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney or other enclosure.
(g) "Recyclable" means any type of refuse designated by the Town of Berlin or by the local solid waste management district to be separated for recycling.
(h) "Solid Waste" means any garbage, refuse, hazardous waste or other materials generated by residential, commercial, industrial and community activities. This definition does not include natural wood and non-woody vegetation, as defined this Article.
(i) "State Permit to Kindle Fire" means the written document giving permission to burn at a specific time and place, with the authority to set special conditions, in accordance with Vermont State Forest Fore Laws, 10 VSA 2645 (Title 10, Chapter 83, section 2645)

§8-3
OPEN BURNING AND INCINERATION

(a) The open burning or incineration of solid waste is prohibited in the Town of Berlin, unless prior permission is obtained from the Department of Environmental Conservation.
(b) Prior to open burning, a State Permit to Kindle Fire shall be obtained from the Town Forest Fire Warden. Such a permit may only be issued for the following types of open burning:

1. The open burning of natural wood and Non-woody vegetation resulting from yard or property maintenance, logging and clearing operations, agricultural improvements, forest and wildlife management, or for festive celebrations
2. After providing the required notice to the Vermont Department of Environmental Conservation, the burning of solid or liquid fuels, or structures for bona fide fire training provided that materials other that natural wood are removed to the greatest extent possible prior to the training.
3. With the prior approval of the Department of Environmental Conservation, the open burning of construction or demolition materials and commercial wastes such as pallets and skids. These materials and wastes can only be "Natural wood" items

4. With the prior approval of the Department of Environmental Conservation, burning authorized by the Selectboard of Berlin for the protection of public health or to thwart a hazard, which cannot properly be managed by any other means.

(c) The open burning of Natural wood and Non-woody vegetation is allowed at a designated place within the municipality by the Town of Berlin in accordance with 10 VSA 565 (Title 10, Part 1, Chapter 23, Section 565), and under the direction of the Town Forest Fire Warden.

(d) Any open burning not listed in paragraphs (b) and (c) is prohibited by this ordinance including but not limited to the burning of hazardous wastes and recyclable materials.

(e) The provision of this Ordinance shall not apply to the burning of natural wood or any virgin fuel in a furnace or other enclosed container to produce heat, power or that for the purpose of preparing food.

(f) Combustion of solid waste in an incinerator is prohibited unless the incinerator meets all the requirements of the Vermont Air Quality Regulations and Solid Waste Management Rules

(g) Open burning or incineration is a violation of this ordinance and may result in enforcement actions as described in Article IV.

§8-4
PENALTIES AND CIVIL ENFORCEMENT

(a) This ordinance is a civil ordinance and enforcement shall be brought in the judicial bureau in accordance with 24 VSA 1974a et seq.

(b) The penalties for violating this ordinance are as follows:

	Civil Penalty	Waiver Fee
First Offense: No Penalty	Written warning – demand to cease burning	
Second Offense:	$65.00	$ 50.00
Third Offense:	$250.00	$36.00
Fourth and Subsequent	$500.00	$300.00

(c) For each offense, a written notice of violation will be issued. The waiver fee is paid by a violator who admits or does not contest the violation.

§8-5
DESIGNATION OF ENFORCEMENT PERSONNEL

For the purposes of this ordinance, the Selectboard may designate any combination of the following person as enforcement personnel: Berlin Police Department, and Berlin Town Fire Warden. (Members of the Selectboard, the Town Health Officer, the Town Attorney, the Town Constable(s) and any official with law enforcement authority under Vermont law).

§8-6
DESIGNATION OF ENFORCEMENT PERSONNEL

All ordinance or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION VII
SEVERABILITY

This ordinance and its various parts, sentences, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

§8-7
EFFECTIVE DATE

This ordinance shall become effective sixty (60) days after the adoption date shown below.

Adopted this 17th day of June 2002.

Signed copy of the ordinance is on file with the Berlin Town Clerk.

Ordinance Rescinded-02/06/2017

Effective-04/07/2017

§12

Parking Ordinance

§12-1

The term "motor vehicle" as used in this ordinance, shall include all vehicles propelled by motor power, regardless of where registered, except road construction and maintenance equipment, authorized emergency vehicles running only upon rails or tracks.

§12-2

a) No Person shall park or cause to be parked or left unattended any motor vehicle at any time on any town highway or street in the Town of Berlin, unless by special authorization of the Selectmen, Town Manager, or Local Constable.

b) The Local Constable may cause any motor vehicle parked in violation of this ordinance to be towed away at the full expense of the owner, for towing charges and storage, and at the owner's risk of damage to the vehicle so towed. Such vehicles will be held until the charges for towing and storage have been paid.

c) Any person violating this ordinance shall be fines not more than Ten Dollars ($10.00) for each violation.

d) This ordinance shall have no application to motor vehicles owned, operated or controlled by persons attending the critically ill emergency calls.

Dated at Berlin, Vermont this 8th Day of December, 1977

§ 15
REGULATION OF PEDDLERS ORDINANCE

This Ordinance is adopted pursuant to 24 V.S.A., Chapter 59 relating to the adoption of ordinances.

§15-1
DEFINITIONS

"Peddler" shall mean any person, partnership, corporation on other business organization offering for sale to the general public any goods, products or services or a temporary or itinerant basis, where such sales or business activities occur over a period of ninety (90) days or less during any calendar year.

"Garage Sales" shall mean the sale of household goods or items by any resident who sells any such goods for a period of less than seven days, and where such sales occur on or within the residential property of the seller. The term "Garage Sales" shall also include lawn or yard sales.

§15-2
APPLICABILITY OF ORDINANCE

1. The provisions of this ordinance shall apply to any and all peddlers whose sales to the general public shall occur within the Town of Berlin, Vermont.
2. The provisions of this ordinance shall not apply to any garage sales occurring within the Town of Berlin
3. The provisions of this ordinance shall not apply to the sale of agricultural and farm products which are sold from and raised on the seller's premises.

§15-3
REGULATION OF PEDDLERS

No Peddler shall offer for sale or sell to the general public any goods, products or services within the Town of Berlin without first obtaining a permit for such peddling and paying the fee required by this ordinance.

§15-4
APPLICATION PROCEDURE

1. Any person, partnership, corporation or other business organization seeking a Peddler's Permit shall apply for such permit by completing application forms therefore, which shall be available at the Berlin Town Clerk's office, and by complying with the provisions of Title 32, § 9108 of the Vermont Statutes Annotated.

2. Applicants for a Peddler's Permit shall include with their application a site plan drawn to scale which includes all dimensions, structures, signs, parking areas and setbacks from adjacent property lines.

3. As part of the completed application, all applicants shall include a written statement signed by the landowner authorizing the applicant's use of the landowner's premises for peddling.
4. No application shall be acted upon unless the applicant submits to the Town Clerk a valid, current Itinerant Vendors License issued by the State of Vermont

§15-5
GRANT OF PERMIT

1. Permit applications shall be submitted to the Town Clerk.
2. The application shall be placed on the agenda for the next regularly scheduled meeting of the Board, which agenda shall be posted and warned in accordance with Vermont law pertaining to regular meetings of the Board.
3. The Select Board shall review the application and may afford the applicant the opportunity to be heard. The Board shall thereafter vote to grant or deny the application and shall inform the applicant in writing of its decisions.
4. The Board shall grant the permit upon finding that the proposed application conforms to all Town of Berlin zoning regulations for the applicable zoning district regarding signs, parking requirements and set back requirements.
5. The permit shall become effective upon receipt by the applicant, and shall expire on March 31st following the date of its issuance.

§15-6
DISPLAY OF PERMITS

Any holder of a Peddler's Permit shall display the same in a prominent location upon the licensed premises and shall display the Permit, upon request, to any law enforcement officer, a member of the Select Board or its agents.

§15-7
PENALTY

1. Any person who violates any provision of this ordinance shall be subject to a fine of not more than Five Hundred Dollars ($500.00) for each offense. Each week that any violation continues shall constitute a separate offense.
2. It is hereby declared to be a public nuisance for any Peddler to operate without having first obtained the required permit. The Town of Berlin may abate the nuisance by any lawful means including, without limitation, appropriate proceedings for injunctive relief.

§15-8
SEVERABILITY

Should any portion of this ordinance by held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

§15-9
EFFECTIVE DATE

This ordinance shall become effective sixty (60) days following its adoption by the Select Board.

The within ordinance is hereby adopted by the Town of Berlin this 28th day of December, 1987

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§ 19
PRIVATE ALARM SYSTEMS REGULATING ORDINANCE

Index:

§98 1. Statement of Purpose
§98 2. Definitions
§98 3. Prohibited Alarms
§98 4: False Alarm Procedures, Service Charges, Fees and Collections
§98 5. Registration of Alarm Systems
§98 6. Audible On-Site Alarms
§98 7. Exemption
§98 8. Severability

The Selectboard of the Town of Berlin hereby ordains:

§19-1. <u>Statement of Purpose:</u>

1.1 This ordinance is enacted to encourage responsible use by those protected by automatic electronic alarm systems. Responsible use includes maintaining equipment so that it is not susceptible to false alarms by system failure.

§19-2 <u>Definitions:</u>

2.1 "Alarms System" shall mean any mechanism or device that is used in a building or premises for the detection of burglary, unauthorized entry, any other criminal activity or fire, flammable gas, or carb monoxide (CO) and which is designed to transmit to any receiving station a signal, message, warning, or other indication of an occurrence requiring a police and/or fire department response.

2.2 "Alarm System User" shall mean any person partnership, firm, association, cooperation, corporation, or any other entity in control of or occupying any building, structure, premises, or facility wherein an alarm system is installed, operated, or maintained.

2.3 "Chief" shall mean either the chief of the Berlin Police Department or the Chief of the Berlin Fire Department, as appropriate.

2.4 "False Alarm: shall mean any alarm signal eliciting a response by police and/or fire personnel when the situation requiring such a response does not in fact exist. An alarm signal caused by electrical power failure, forces of nature or other extraordinary circumstances beyond the control of the alarm system user shall not constitute a false alarm.

2.5 “On-Site Alarm System” shall mean any mechanism or device which, when activated, causes an audible or visual signal to be activated only in or on the premises wherein the system is installed, operated, and/or maintained.

2.6 “Department” shall mean the Berlin Police Department or the Berlin Fire Department, as appropriate, or any other agency providing public safety services to the Town of Berlin.

§19-3. <u>Prohibited Alarms:</u>

3.1 It shall be a violation of this ordinance to install, operate, or maintain an alarm system that transmits via telephone line directly to the Police Station, Fire Station, or Dispatch Center a pre-recorded message requesting a response by either of those departments.

§19-4. <u>False Alarm Procedures, Civil Penalties and Enforcement:</u>

4.1 An alarm system user shall be responsible for all false alarms generated by the system devices.

4.2 It shall be a violation of this Ordinance for any alarm system user to reset, manually silence or otherwise tamper with an activated fire alarm system until such time as authorized by the Fire Officer, except when conducting alarm system maintenance of testing or while preforming some other activity that is likely to activate a false alarm. The exception for maintenance and/or testing shall only apply if the alarm system user has provided prior notice to the alarm system user’s monitoring company (if applicable) and the Fire Departments Dispatch Center.

4.3 This Ordinance is designated as a civil ordinance pursuant to the Vermont Statutes Annotated. For the second false alarm from an alarm system within any six month period, and for any false alarms thereafter, the alarm system user shall be subject to civil penalties as follows:

a. For the second false alarm within a six month period: One Hundred Dollars, ($65.00).
b. For the third and subsequent false alarms within the same six months: Two Hundred dollars, ($200.00).

4.4 Civil penalties shall be assessed and collected in accordance with Vermont Statutes Annotated pertaining to civil ordinance penalties and violations.

§19-5. <u>Registration of Alarm Systems:</u>

5.1 The owner of any occupied building or residence in which an alarm system is installed shall provide to the Chief of the Police Department and/or the Chief of the Volunteer Fire Department, as appropriate, or his/her designee, written information which contains the name, address and telephone numbers of the alarm system owner and the names and telephone numbers of at least two (2) persons who can be notified to secure the premises at any time of day in the

event that an alarm system is activated; or in the event that the alarm system is served by a local responding service or repair contractor, the name, address and telephone number of such contractor. The owner shall also provide, in writing, driving directions to the owner's premises. The owner shall promptly notify the Chief of each Department, as appropriate, in writing, of any changes in such information.

5.2 All commercial building, whether or not equipped with an alarm system, constructed after the adoption of this ordinance shall include a lock box system approved by the Chief of the Volunteer Fire Department. The Chief may waive this requirement if alternate arrangements for immediate access to the interior of the structure are provided.

§19-6 Audible On-Site

6.1 Audible On-Site alarms which are audible outside the boundaries of the property in which the On-Site alarm is installed shall be equipped and maintained to shut off automatically no longer that sixty (60) minutes following activation. Any alarms not in compliance with the requirements of this section shall come into compliance no later than one (1) years after the effective date of this Ordinance.

§19-7. Exemptions:

7.1 The provisions of this Ordinance shall not apply to any building owned by the Town of Berlin or the Berlin Volunteer Fire Department.

§19-8. Severability:

8.1 If any section subsection, or any part thereof, is for any reason held to be invalid by any court of the competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

§19-9. Effective Date:

9.1 This Ordinance shall be effective sixty (60) days following adoption unless a petition for disapproval of the Ordinance is filed in accordance with Vermont Statutes Annotated within forty-four (44) days of adoptions.

Adopted by the Berlin Select Board: Date: October 7, 2013

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§25
RECREATION BOARD ORDINANCE

§25-1

That under the authority of the Vermont Statues Annotated, Title 31, Chapter 5, Section 201-203 and Title 24, chapter 59, section 1962-73, there be, and is hereby created in the Town of Berlin, Vermont, a Recreation and Park Board, the members of which shall be appointed by the Selectboard and shall consist of five members, who must be residents of the Town of Berlin, Vermont.

§25-2

The initial members of the Recreation and Park Board shall be appointed, respectively for one-year terms. Thereafter all such appointments, except to fill vacancies, shall be f or a term of three (3) years or until a successor is appointed and qualified. All appointments for the purpose of filling vacancies occurring otherwise than by expiration of term of office shall be for the unexpired terms. Members of the said Board shall serve without pay.

§25-3

Immediately after appointment the members of the said Board shall meet and elect a chairman and such other officers as may be necessary for a period of one year or until such time as new elections are held.

In the event that an officer fails to adequately perform the duties of the position, then this person may be removed from the office by a majority vote of the Board after which a new election shall be held to fill that position.

§25-4

The Recreation and Park Board shall hold regular meetings and shall designate the time and place thereof, and shall have the power to adopt rules and regulations for the conduct of business within its jurisdiction, and shall keep a record of all its proceedings. Three (3) members shall constitute a quorum. A vacancy in the Board shall occur when any member shall fail to present at three consecutive regular meetings or 25% of such meetings in any fiscal year, unless such absence shall be excused by the Board and the reason there for entered in the proceedings.

§25-5

The powers and the duties of the Recreation and Park Board shall be exercised and performed as herein provided, and in conformity with the laws of the State of Vermont. The Board shall adopt its own constitution and by-laws to supplement this ordinance.

§25-6

The Board shall be charged with control, development, management, operation and maintenance of a system of public parks, recreational areas and facilities, and shall be charged with the supervision and maintenance of playgrounds, play-fields, bath beaches, swimming pools, recreation centers and other recreation and park activities, areas and facilities. It shall have the power to expend for this purpose any funds appropriated by the Town of Berlin, Vermont, for such purpose and any funds donated or bequeathed for recreation and/or park purposes by private individuals or organizations. It shall be charged with the responsibility of providing an adequate and wholesome recreation program for people of both sexes and ages.

The Board may conduct fund-raising programs to support recreation and parks and may expend said funds.

§25-7

The board shall have the power to conduct outdoor and indoor recreation activities and facilities on the grounds and in the buildings in charge of the School Board, subject to it consent.

The Board, with the approval of the Selectboard shall have the authority to conduct, at reasonable charges, such facilities for amusement, entertainment, refreshment or transportation of the public as suitable for park and recreation purposes, and may let privileges therefore, but such privileges shall be subject to the supervision and control of the Board and its Director.

The Board may make with approval of the Selectboard, all contracts to carry out the objectives and purposes of the Board and shall have such other powers and perform such other duties as may be necessary for the proper administration of the affairs of the Board.

§25-8

The Recreation and Park Board at the regularly designated time shall submit to the Selectboard and estimate of the anticipated revenues and expenditures for the ensuing fiscal year, to be approved in whole or in part by the Selectboard an included in the budget. Said Board shall operate within the budget as approved and expenses thereof shall be payable by the Selectboard. The Board shall file quarterly reports giving a complete accounting of monies received and expended.

§25-9

The Recreation and Park Board shall at a designated time each year, make a written report to the Selectboard relative to the work of the Board for the past year and the goals and objectives for the next year, and shall submit other reports as may be requested from time to time.

§25-10

The Recreation and Park Board shall keep a record of the minutes of all meetings, procedures and accounts of the Board and such records shall be open to the public.

§25-11

The Recreation and Park Board may solicit or receive gifts or bequests or other personal property or any donation to be used, principal or income, for the municipal and/or park purposes.

§25-12

The Board in carrying out its responsibilities shall consider the utilization of all local, State, Federal and recreation and park organization resources providing financial and technical assistance.

§25-13

This ordinance may be amended in accordance with Vermont Statutes Annotated, Title 24, Chapter 59, Section 1976.

§25-14

All ordinances, resolutions, or parts thereof in conflict with the provisions of this ordinance are hereby repealed, and this ordinance shall take effect and be enforces after the earliest date allowed by law.

§25-15

The foregoing ordinance is adopted as of April 16, 1979, and shall become effective sixty (60) days after the date of its adoption, unless permissive referendum is held pursuant to 24 V.S.A., 1973

Adopted April 16, 1979

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§27
REGULATING THE USE OF THE PUBLIC SEWER SYSTEM & DISPOSAL OF SANITARY SEWAGE & INDIVIDUAL WASTE AMENDED ORDINANCE EFFECTIVE JULY 1, 2003

The Selectmen of the Town of Berlin, Vermont hereby adopt the instant amended ORDINANCE for the purpose of regulating the use of the public sewer system and the disposal of sanitary sewage and industrial waste.

The shore title of the ORDINANCE shall be the "BERLIN SEWAGE ORDINANCE."

Said ORDINANCE is adopted pursuant to applicable statutory law and with particular reference to 24 V.S.A. §1971 et seq. and shall read as follows:

ARTICLE 1
Definitions

Unless the content specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Section 1 "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

Section 2. "Building Sewer" shall mean the extension from the sewer drainage system of any building or other structure to a public sewer or other place of disposal.

Section 3. "Garbage" shall mean solid wastes from domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Section 4. "Hearing Board" shall mean that board appointed according to Article VIII.

Section 5. "Industrial Wastes" shall mean the liquid wastes from manufacturing, processing, or assembling any product, commodity, or article by any business or industry.

Section 6. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Section 7. “Person” shall mean any individual, partnership, firm, company, association, society, corporation, or other legal entity.

Section 8. “pH” shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Section 9. “Properly Shredded Garbage” shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27) centimeters in any dimension.

Section 10. “Public Sanitary sewers” shall mean a public sewer to which sanitary sewage is permitted to be discharged.

Section 11. “Public Sewer” shall mean a sewer owned and controlled by the Town of Berlin.

Section 12. “Public Storm Sewer” shall mean public sewer to which ground, storm, and surface water are permitted to be discharged.

Section 13. “Sanitary Sewage” shall mean normal water-carried wastes and toilet wastes from residences, business buildings, institutions, industrial establishments, and any other buildings or structures excluding ground, surface, storm water, and industrial waste.

Section 53. “Sanitary Sewer” shall mean a sewer which carries sanitary sewage and to which storm, surface, and ground waters are not intentionally admitted.

Section 15. “Secretary” shall mean the Secretary of the Agency of Environmental Conservation, State of Vermont, or his or her representative.

Section 16. “Sewage” shall mean a combination of sanitary sewage and industrial waste, together with such ground surface, and storm waters as may be present.

Section 17. “Sewage Disposal Commissioners” shall be appointed by the Selectmen of the Town of Berlin.

Section 18. “Sewage Treatment Plant” shall mean any arrangement of devices and structures used for treating sanitary sewage.

Section 19. “Sewage System” shall mean all facilities for collecting pumping, transporting, treating and disposing of sanitary sewage situated in the Town of Berlin and owned, maintained and operated by the Town of Berlin. It shall not include the system of storm sewers in use in the Town of Berlin.

Section 20. “Sewer” shall mean a pipe or conduit for carrying sewage.

Section 21. “Shall” is mandatory. “May” is permissive.

Section 22. “Slug” shall mean any discharge of water, sanitary sewage, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Section 23. “Storm Drain” and “Storm Sewer” shall mean a sewer which carries storm and surface waters and drainage, but excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.

Section 24. “Suspended Solids” shall mean solids that either float on the surface of, or are in suspension in water, sanitary sewage, sewage, industrial wastes or other liquids, and which are removable by laboratory filtering.

Section 25. “Watercourses” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

ARTICLE II
Use of Public Sewer Required

Section 1. No person shall place or deposit, or cause or permit to be placed or deposited upon public or private property within the Town of Berlin any sanitary sewage of industrial waste, expect as permitted by Section 5 of this Article for industrial waste and except as permitted by the Town of Berlin Zoning regulations for private sewage disposal. This section shall not prohibit the Town of Berlin from depositing sludge from the sewage treatment plant on property within the Town of Berlin with the permission of the owner thereof as long as the deposit does not create a nuisance or health hazard and does not violate any laws of the State of Vermont or any of the rules and regulations of the Vermont Department of Health.

Section 2. No person shall discharge or cause or permit to be discharged into any natural outlet within the Town of Berlin any sewage, sanitary sewage, industrial waste, or other substance or material or other polluter of waters, except as permitted by the Vermont Statutes and the Rules and Regulations of the Vermont Water Resources Board.

Section 3. No person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the private disposal of sewage, except as is permitted by the Town of Berlin Zoning Regulations for private sewage disposal systems, and no privy, privy vault, septic tank, cesspool, or other similar receptacle at any time shall be connected with a public sanitary sewer.

Section 4. The owners of all houses, commercial, industrial, or other buildings or properties used for human occupancy, business, employment, recreation, or other purposes, located within the Town of Berlin, abutting on any street, alley, or right-of-way, benefited, improved, served, or accommodated by any public sanitary sewer or to which any public sanitary sewer or to which any public sanitary sewer is available, is required at the owner’s expense to install suitable toilet

facilities therein and to connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this Ordinance, within 120 days after the date of official notice to do so, provided that said public sanitary sewer is located within 65 feet of the buildings on said properties.

Section 5. Industrial waste may not be discharged, placed, or deposited upon any public or private property within the Town of Berlin without a permit so to do from the Sewage Disposal Commissioners. The owner, or his agent, shall make application on a form furnished by the Town of Berlin. The permit application shall be supplemented by any plans, specifications of other information considered pertinent in the judgement of the Sewage Disposal Commissioners. An inspection fee of $50.00 shall be paid to the Town of Berlin at the time the application is filed. A permit shall not be granted where the discharge or deposit of such wastes would violate the laws of the State of Vermont or any rules and regulations of the Vermont Department of Health.

ARTICLE III
Building Sewers and Connections

Section 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Sewage Disposal Commissioners.

Any person proposed a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Sewage Disposal Commissioners at least forty-five (45) days prior to the proposed change or connection.

Section 2. The owner, or his agent, of any property for which a permit is sought shall make application on a form furnished by the Town of Berlin. The permit application shall be supplemented by any plans, specifications, or other information considered pertinenent in the judgement of the Sewage Disposal Commissioners.

Section 3. The Town of Berlin will at its expense, initially construct each public sewer with the highway right of way or adjacent thereto, and the costs and expenses of the construction of any building sewers and the connection to the public sewers shall be borne by the owner and such owner shall indemnify and save harmless the Town of Berlin, its officers and agents, from any loss or damage that may be caused, directly or indirectly, as a result of the construction of the building sewer or its connection to the public sewer.

Section 4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considers as one building sewer.

Section 5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Sewage Disposal Commissioners, or their agents, to meet all requirement of this Ordinance.

Section 6. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the rules and regulations of the Town of Berlin. In the absence of such rules and regulations, the materials and procedures set forth in appropriate specification of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Section 7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which the drainage system for sanitary sewage is too low to permit gravity flow to the public sanitary sewer, sanitary sewage carried by such drainage systems shall be lifted in a manner approved by the Sewage Disposal Commissioners and discharge to the public sewer.

Section 8. No person shall make connection of roof down spouts, exterior foundation drains, area way drains, cellar drains or other sources of surface runoff or groundwater to a building sewer or the drainage system of the building which in turn is connected directly or indirectly to a public sanitary sewer.

Section 9. The connection of the building sewer to the public sewer shall conform to the rules and regulations of the Town of Berlin, and if there be none, to the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Sewerage Disposal Commissioners before installation.

Section 10. The applicant for the build sewer permit shall notify the Sewage Disposal Commissioners when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision for the Sewage Disposal Commissioners or their agents.

Section 11. All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town of Berlin.

Section 12. When the use of a sewer service line is disconnected. The line must be properly sealed. The Sewage Disposal Commissioners or their agent must inspect how the service line is sealed.

Section 13. A water meter that reads in thousand gallons must be installed upon connection to the Town of Berlin Sewer System. An electronic reader connected to the water meter must be installed on the outside of the building.

ARTICLE IV
Use of the Public Sewers

Section 1. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface unpolluted industrial process waters into any public sanitary sewer.

Section 2. Storm water and all other unpolluted drainage shall be discharge only to such sewers as are specifically designed as public storm sewers, or in such other manner as is approved by the Sewage Disposal Commissioners as long as same does not conflict with the laws of the State of Vermont. Industrial cooling water or unpolluted process waters may not be discharged into a public storm sewer or a natural outlet without the approval of the Sewage Disposal Commissioners, and, if into a natural outlet, only when such does not conflict with the laws of the State of Vermont.

Section 3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a) Any gasoline, benzene, naphtha, fuel oil, motor oil, or other flammable or explosive liquid, solid or gas.
b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by integration with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to, cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
c) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage system such ask but not limited to, ashes, cinders, sand, mud, straw, shavings, metals, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cup, mile containers, etc. either whole or ground by garbage grinders.

Section 4. No person shall discharge or cause to be discharged into public sewers the following described substances, materials, waters, or wastes, without written consent of the Sewage Disposal Commissioners. The Sewage Disposal Commissioners shall not give their consent if it appears likely, in their opinion, that such wastes can harm either the sewers, sewage treatment process or equipment, or have an adverse effect on the receiving stream, or can otherwise endanger life, limb public property, or constitute a nuisance. In forming their opinion as to the acceptability of these wastes, the Sewage Disposal Commissioners will give consideration to such fact as the quantities of the subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances so prohibited are:

a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 C)
b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (65) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65C).
c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Sewage Disposal Commissioners.
d) Any waters or wastes containing strong acid iron pickling, wastes, or concentrated plating solutions, whether neutralized or not.
e) Any waters of wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any material received in the composite sewage at the treatment plant exceeds the limits established by the Sewage Disposal Commissioners for such materials.
f) Any waters or wastes containing phenols or other taste-or odor-producing substances, in such concentrations exceeding limits which may be established by the Sewage Disposal Commissioners as necessary, after treatment of the composite sewerage, to meet the requirements of the State, Federal, or other public agencies having jurisdiction for such discharge to the receiving waters.
g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Sewage Disposal Commissioners in compliance with applicable State or Federal Regulations.
h) Any waters or wastes having a pH lower than 5 and greater than 8.

§28

Sewer Ordinance for the Town of Berlin, Vermont
Relating to Individual Sewage Disposal Systems

§28-1

Purpose

This ordinance is adopted pursuant to 24 V.S.A. §102 relating to on-site sewage disposal systems. The purpose of this ordinance is to:

1. Prevent the creation of health hazards.
2. Prevent surfacing sewage, the contamination of drinking water, groundwater and surface water,
3. Ensure that facilities are designed, constructed, operated, and maintained in a manner which will promote sanitary and healthful conditions.

This ordinance, upon adoption by the Berlin Board of Selectmen and when approved by the Vermont Department of Water Resources, shall supersede and replace the Health Regulations of the Town of Berlin which became effective on June 6, 1980.

Section 2

Definitions

Applicant-the person who owns the premises on which a sewage disposal system will be constructed or altered.

Family-one or more persons living, sleep0ing, cooking, or eating on the same premises as a single housekeeping unit.

Sewage Officer-the legally designed authority of Berlin acting under authority of this Ordinance. The Sewage Officer may the Town's Health Officer, Administrative Officer or other Town official.

On-Site Sewerage Disposal System-system for disposal of waste using soil as a disposal medium, including a tank for collection of solids and a leach area for liquids, or any other system which disposes of wastewater on-site.

Permit-A written authorization issued by the Berlin Sewage Officer.

Person-Any institution, public or Private Corporation, individual, partnership, or other entity.

Single Family Dwelling-A building used as living quarter for one family.

Vermont Health Regulations-Vermont Health Regulation Chapter 5k, Sanitary Engineering, Subchapter 109, Wastewater Treatment and Disposal-Individual On-site systems; effective June 7, 1983 promulgated by the Vermont Department of Health and adopted by the Vermont Department of Water Resources and Environmental Engineering, July 1, 1984. These regulations are incor0porated into this Ordinance by reference.

Section 3

Applicability of Ordinance

1. All single family home construction shall receive a disposal system construction permit before commencement of construction on the property. All camp construction which includes indoor plumbing shall likewise require a disposal system construction permit before commencement of construction on the property.
2. All single family home, group or community on-site sewage disposal systems shall not occur until a permit has been issued by the Sewage Officer (see definitions) appointed by the Board of Selectmen. Exceptions:
    a) When a minor modification to an existing system is proposed, the Sewage Officer may waive the permit requirement on a case-by case basis. The Sewage Officer will determine what constitutes a minor modification.
    b) Existing single family home sewage disposal systems in operation at the time of adoption of the Ordinance are approved, provided that such systems do not create a health hazard, nuisance, or pollute surface or groundwater. Whether an existing system is casing a health hazard, nuisance, or is polluting surface or groundwater shall be determined by the Health Officer or Sewage Officer. Existing systems determined to be a health hazard, nuisance or polluting surface or groundwater shall be upgraded to meet the standards of the Ordinance to the extent possible.
3. No single family dwelling served by a sewage disposal system shall be altered in any way so as to increase the residential capacity of the structure unless the Sewage Officer determines that the existing sewage disposal construction permit has been issued to increase the capacity of such system.
4. In case of any other applicable regulation, by law, ordinance or statute which differs from the Ordinance, the more strict shall apply.
5. The Ordinance shall not apply to any structure which has access to a municipal sewer system and where a connection to a municipal sewer system is feasible and permitted by the Town of Berlin pursuant to the Public Sewer Ordinance in effect the Town of Berlin.

Section 4

Application Procedure

1. Disposal System Construction Permit
   Any person who intends to build, replace or alter a sewage disposal system construction permit. The application shall contain soil and site information as required by the Vermont Health Regulations (see definitions) and a design for disposal system. The system shall be designed as specified by said regulations.

A fee shall be paid to the Town of Berlin in the amount as shall be established by the Board of Selectmen.
Technical information for the application shall be prepared by an on-site sanitary specialist of the Vermont Association of Conservation Districts Inc., a certified site technician, or a professional sanitary or civil engineer, at the option of the applicant. The construction permit shall be granted or denied by the Sewage Officer. The permit shall become void if the disposal system is not completed within two (2) years of date of issue. In cases where the proposed project requires a zoning permit the zoning permit shall serve as the disposal System construction permit and may be issued only after the Sewage Officer has determined the sewage disposal system design to be in compliance with this Ordinance. Evident of Approve by the Sewage Officer shall be attached to the Zoning Application.

2. Disposal System Use Permit
The designer of the approved sewage disposal system shall submit a final inspection report to the Sewage Officer. Such report shall certify whether the disposal system has been installed as approved. Any variations from the approve design shall be noted in the report. The Sewage Officer may also inspect the system before it is covered with soil. The Sewage Officer shall issue a disposal system use permit when satisfied that the installed sewage system is in compliance with the Ordinance. The certification by the designer of the disposal system. In the case of projects requiring a zoning permit, the zoning occupancy permit shall serve as the disposal system use permit.
3. Terms and Conditions of Permits
All permits run with the land and are binding upon each and subsequent owners. All permits issued under this ordinance shall be filed for record with the Town Clerk by the applicant for recording in the Claimant's book. The permittee (Applicant) shall be listed in the general index as the Grantor and the Town of Berlin shall be listed as the grantee. All recording fees shall be paid by the permittee (Applicant).

Section 5

Alternative Systems and Permitted Deviations

1. Chemical toilets, privys, composting toilets and incineration toilets may be approved on a case by case basis by the Sewage Officer. If one of the above toilets is used and soil conditions allow, the absorption area of the associated subsurface sewage disposal system may be reduced if sufficient area is available to add to the leach field in the event that conventional toilets are used to replace the waterless toilets.
Full replacement area for a disposal field is required. However, if an alternative system is replaced by conventional toilets, the disposal field shall be redesigned and reconstructed in accord with the new system of disposal. Reduction in the size of any mound system will not be permitted.
2. At the discretion of the Berlin Board of Selectmen and authorized in writing, deviations From the design specifications in the Vermont Health Regulations (see definitions) may be allowed. Such deviations will only be allowed if the minimum soil and site requirements and the performance standards of said regulations will be met.

Section 6

Appeals

Any applicant aggrieved by decision of the Sewage Officer may appeal that decision in writing to the Berlin Board of Selectmen within thirty (30) days of such decision. The Berlin Board of Selectmen shall hold a hearing within thirty (30) days of such an appeal and shall render a decision within fifteen (15) days after the close of such hearing. Any person aggrieved by a decision of the Berlin Board of Selectmen may appeal that decision to the Superior Court.

Section 7

Enforcement

A person who neglects or refuses to comply with the provisions of this ordinance may be fined not more than $500 for each offense. Each week that a violation is continued shall constitute a separate offense. 24 V.S.A. §1974

Section 8

Severability

If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction the remainder of this Ordinance shall not be affected. The within Sewer ordinance is hereby adopted by the Town of Berlin following a public hearing this 18th day of March, 1985.

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§29

TOWN OF BERLIN

SNOWMOBILE ORDINANCE

§29-1. AUTHORITY. This civil ordinance is adopted by the Selectboard of the Town of Berlin under authority of 23 V.S.A. § 3210, 24 V.S.A. §§ 2291(1), (4), (7) and 24 V.S.A. Chapter 59.

§29-2. PURPOSE. The purpose of this Ordinance is to promote and protect the public health, safety and welfare of the Town, and to preserve residents' rights to quiet enjoyment of homes and properties by regulating the time, manner, and location of operation of snowmobiles within the Town.

§29-3. DEFINITIONS. For the purposes of this Ordinance, the following words and / or phrases shall be defined as follows:

A. "Enforcement Officer" means any law enforcement officer certified by the Vermont criminal justice training council.

B. "Operate" includes an attempt to operate and shall be construed to cover all matters and things connected with the presence and use of snowmobiles within the Town whether they be in motion or at rest.

C. "Public land" means all land that is either owned or controlled by a local, state or federal governmental body.

D. "Snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow, having a curb weight of not more than 793.783 kg (1,750 lbs.), driven by track or tracks in contact with the snow and steered by a ski or skis in contact with the snow.

E. “VAST” means the Vermont Association of Snow Travelers.

F. Other definitions found in 23 V.S.A. § 3201 are incorporated by reference.

§29-4 SIGNAGE. Placement and maintenance of all signs regulating snowmobile operation on public lands, on VAST trails, at crossings of trails over highways or sidewalks, and on town highways or sidewalks which have been opened by the Selectboard for snowmobile traffic shall be the responsibility of VAST.

§29-5. TOWN HIGHWAYS OPENED.

This ordinance is to allow snowmobile travel on the following section of a Town Class III highway: “**Crosstown Road between “Pond Road” immediately opposite Shed Road proceeding in a westerly direction, ending at the junction of Paine Turnpike South and Crosstown Road or in the reverse direction between the points referenced above. This will allow passage under the route I-89 overpass. No other Town Highways are included within this ordinance. This ordinance is on a year to year basis and must be renewed annually.**

§29-6 HOURS OF OPERATION

The Town Highway may be accessed between the hours of 7 a.m. to 10 p.m.

§29-7 SPEED LIMITS AND TRAFFIC CONTROL DEVICES. All posted speed limits and traffic control devices on Town highways shall apply to the operation of snowmobiles. Notwithstanding the above, no person shall drive a snowmobile on a public right of way at a speed greater than is reasonable and prudent under the conditions, having regard to the actual and potential hazards there existing. In every event, speed shall be controlled as necessary to avoid collision with any person, vehicle, snowmobile, or other object on or adjacent to the snowmobile trail.

§29-8. OTHER LAWS. This Ordinance is in addition to all other ordinances of the Town of Berlin and all applicable laws of the State of Vermont. All ordinances or parts of ordinances,

resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

§29-9. SEVERABILITY. If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

§29-10. EFFECTIVE DATE. This Ordinance shall become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

Date of adoption by the Selectboard: January 3, 2019

Signatures of Selectboard members:

_____ _____

_____ _____

_____

A signed copy of this ordinance is available at the Town Clerk's Office

§30

Ordinance Rescinded 07/18/2016

Snowmobile Ordinance
Town of Berlin
Regulating the Use of Snowmobiles

§31

SPECIAL EVENT ORDINANCE

The Selectboard of the Town of Berlin, Vermont, hereby adopts the following ORDINANCE for the purpose of regulating special events taking place in the Town of Berlin. This ORDINANCE, is adopted pursuant to applicable statutory law and with particular reference to 24A V.S.A. § 105-32 et. seq. and 24 V.S.A. Chapter 59.,

The **Purpose** of this ORDINANCE is to protect the public health, safety and welfare through the issuance of special event permits for special events occurring on, or having the potential to negatively impact, public property, including but not limited to public highways and public rights of way; and to ensure the safety of participants, observers and other members of the general public at special events.

31§ 1. **Definition**.

For purposes of this Ordinance, a "special event" is defined as follows:

any parade, fair, show, festival, carnival, rally, party, filming of movie, video or television show, motorcade, run, street dance, bike-a-thon, race, walks, athletic event or other attended entertainment or celebration that is to be held in whole or in part upon publicly owned property and/or a public right-of-way, or, if held wholly upon private property, will affect or impact the ordinary and normal use by the general public of public property or public rights-of-way within the vicinity of the event. Special event shall also mean any activity to be held in whole or in part upon publicly owned or controlled property and/or public rights-of-way where merchandise or services are offered for sale, whether by for profit or nonprofit organizations.

31§ 2. **Permit Required**.

Any person desiring to conduct or sponsor a special event shall first obtain a special event permit from the Town of Berlin Selectboard. No person shall conduct or sponsor a special event without first obtaining a special event permit.

Section 3. The following shall be exempt from the requirement to obtain a permit:

a. Any event sponsored by the Town of Berlin or any of the town's departments;

b. Any event sponsored by a municipal school district located within the geographical limits of the Town of Berlin.

31§ 3. **Application Requirements**.

Not less than twenty-one (21) days prior to the occurrence of any special event, the sponsor shall apply for a Special Event permit, on forms provided by the Town, and shall provide, at a minimum, the following information:

a. the name of the applicant and/or sponsoring organization, the special event chairperson, and the address and telephone number of each;

b. the purpose of the special event, the date when it is proposed to be conducted, the location and the hours of operation;

c. a site map or maps, schedule of events and location of events;

The application for a Special Event permit shall be accompanied by a filing fee in the amount of Fifty Dollars ($50) for each day that the Special Event shall be held or conducted. The Selectboard shall be authorized to reduce or waive applicable fees for nonprofit applicants or in other appropriate circumstances, as the Selectboard may determine.

31§ 4. **Action on Permit**.

The Berlin Selectboard shall act to approve or deny an application for a special event permit. The Selectboard may deny an application if, after consideration of all information submitted by the applicant or other pertinent information, the Selectboard determines that:

a. Information contained in the application, or supplemental information requested from the applicant, is found to be false or nonexistent in any material detail; or

b. The applicant fails to complete the application form after having been notified of the additional information or documents required; or

c. The applicant refuses to agree to abide or comply with all of the conditions and terms of the permit; or

d. The time, route, hours, location, or size of the special event will unnecessarily disrupt the movement of other traffic within the area; or

e. The Special Event is of the size or nature that it would be impossible for the Town's police department to properly police the event or would otherwise place undue burdens on the Town; or

f. The location of the Special Event would cause undue hardship for adjacent businesses or residents; or

g. The event would endanger public safety or health; or

h. The event would seriously inconvenience the general public's use of public property, services or facilities; or

i. The applicant fails to comply with any liability insurance requirements that may be imposed by the Selectboard as a condition of any permit; or

j. The event would create or constitute a public nuisance or would be likely to cause significant damage to public property or facilities; or

k. The event would engage in or encourage participants to engage in illegal acts.

31§ 5. **Conditions**.

The Selectboard, in granting any application, may impose conditions on a permit, in order to protect public health and safety. Such conditions may include the following:

a. Alteration of the date, time, route or location of the event proposed on the event application;

b. Elimination of an activity which cannot be mitigated to a point as to ensure public safety and welfare, or which causes undue liability to the Town;

c. Conditions concerning the area of assembly and disbanding of a parade or other events occurring along a route;

d. Conditions concerning the accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street or right-of-way;

e. Requirements for the use of traffic cones or barricades;

f. Requirements for the use of Town personnel and equipment, at the sole cost of the applicant;

g. Requirements for the provision of first aid or sanitary facilities;

h. Requirements for the use of event monitors and providing notice of permit conditions to event participants;

i. Requirements to provide notice to surrounding property owners;

j. Restrictions on the number and type of participants, vehicles or structures at the event, and inspection and approval of floats, structures and decorated vehicles for fire safety;

k. Requirements for the use of garbage/recycling containers, and cleanup and restoration of any involved Town property;

l. Restrictions on the use of amplified sound;

m. Compliance with any other relevant ordinance or law and obtaining any legally required permit or license;

n. Requirements for obtaining adequate levels of liability insurance coverage for the Special Event, including the furnishing to the Town of applicable certificates of insurance or other acceptable proof of adequate insurance coverage;

o. Any other restriction or requirement deemed necessary to ensure public safety and well-being.

31§ 6. **Permit Revocation**

Any permit issued pursuant to this Ordinance may be revoked by action of the Selectboard, at an emergency, special or regular meeting, if the Selectboard determines, through information obtained following the issuance of a permit, that the safety of the public or property requires such revocation, or if the Selectboard determines that the permit was issued based upon false information or the permittee has exceeded the scope of the permit and/or any of the permit's conditions. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or certified mail at the address specified by the permittee in the application.

31§ 7. **Ordinance Designation; Enforcement Personnel; Penalties**.

This ORDINANCE is designated to be a civil ORDINANCE pursuant to Vermont Statues Annotated. Violators of this ORDINANCE may be subject to a civil penalty to be assessed and collected in the amount of Two Hundred-fifty Dollars ($250.00) for each day during which any Special Event is held without permit. Civil penalties shall be assessed and collected in accordance with Vermont Statutes Annotated pertaining to civil ordinance penalties and violations. Additionally, the Town of Berlin shall be entitled to obtain appropriate injunctive relief to the full extent allowed under the laws of the State of Vermont.

31§ 8. **Severability**.

In the event that any part or portion of this ORDINANCE is determined to be invalid, such determination and invalidation shall not affect the validity or enforceability of the remaining provisions of this ORDINANCE.

31§ 9 **Effective Date**.

This ORDINANCE shall become effective sixty (60) days following adoption by the Selectboard.

Adopted this 4th Day of April, 2016. To be effective June 3, 2016

_____	_____
Ture Nelson	Brad Towne
_____	_____
Jeremy Hansen	Wayne Lamberton
_____	
Pete Kelley	

Selectboard of Berlin

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§33
STREET NAME AND STREET ADDRESSING ORDINANCE

§33-1
PURPOSE

In accordance with 24 V.S.A. Section 2291 (16) and 24 VSA section 4421 the Selectboard of the Tow of Berlin hereby establish the following ordinance regarding: Street Naming and Street Addressing. The purpose for this ordinance is to help establish a more uniform street naming and street addressing system throughout the Town of Berlin. We believe that easily locatable addresses will enable emergency services to arrive at a scene faster.

§33-2
STREET NAMING

Every street and road, both public and private, shall be assigned a name. This will be done at first by the E-911 Coordinating Committee and after public input with final approval by the Berlin Selectboard.

In the future any new development must meet the guidelines of this ordinance.

All road names must be a separate and distinct name. No two roads can have the same or similar sounding names. No new road can have any currently used name in the Town of Berlin. Furthermore, the Berlin Selectboard may change the names of the streets, both public and private, (after duly warned public hearings) within the Town of Berlin when necessary to promote public welfare and safety.

§33-3
ADMINISTRATION

The zoning Administrator will, as part of building permit processing:

(1) Assign dwelling number based on the criteria set forth in this ordinance, Section IV, (number determined by the location of the center of the driveway where it intersects the road). Other buildings on the same property that have a telephone should also be assigned the same number as the dwelling with an added letter. (I.e. A for 1st building with phone, B for second building, etc.).

(2) Submit appropriate documentation to designed 911 Update locations (s).

a. Existing numbers of parcels, on Town tax maps, not in conformity with this chapter shall be changed to conform to the system herein adopted to maintain the integrity of the overall system and to protect public safety.

§33-4
GENERAL NUMBERING SYSTEM GUIDELINES

All roads to be given an official name by the Selectboard and shall be measured in segments of 5.28 feet from a designated starting point, usually the end of the road nearest the intersection of a larger road. Odd numbers shall be assigned to the LEFT side of the road and even numbers to the RIGHT side of the road.

All numbers shall be established based on front entrance from the street, from the center of the driveway. (Or in some cases the center of the structure).

All numbers shall be properly affixed on or near the front entrance or in some other manner visible from the street. The numbers must be easily legible figures not less than two inches (2") high and in a color contrasting to the building background. (Recommend REFLECTIVE NUMBERS). The home owner is responsible for the numbers on the house or unit. If a house is not visible from the road it needs a number at the driveway visible from the road.
.

§33-5
DEFINITION

Apartment house: A building under one ownership in which the rooms rearranged and rented as apartments. Apartment houses shall be numbered as follows: The apartment house shall be given one street number and each individual apartment shall be given an apartment number. For example, 21 Upper Handle Road Apt. 1; 21 Upper Handle Road, Apt. 2.

Residential Condominium Complex: A building with individual separately owned units in multi-unit structure usually with land owned in common. These shall be numbered as follows: each condominium road shall be given a road name and each condominium unit within the complex shall be given its own street number. For example: 2 Green Willow (Time Creek Complex)

Commercial Complex: A building or buildings under one ownership used for commerce or industrial use, shall be numbered as follows: each building shall be given its own street umber, and each unit shall be given its own unit or suite number. For example: 111 Route 65, Suite 1. Where there are multiple roads in a complex, each road shall be named and each building within own number. In the case of commercial condominium each separately owned unit in the building should have a unit number and further leased/division should be given a letter. For example 111 Route 65, Suite, Unit.

Combined Commercial and Apartment Complex: A building or buildings used for commercial use in which there is also apartments, shall be numbered as follows: each building shall be given its own street number; each commercial unit shall be given a respective unit or suite number and each apartment number a respective apartment number. At no time shall a unit

or apartment be given the same numbers. For example: 58 Route 65, Unit 1 (first floor business) 58 Route 65, Apt 3 (third floor apartment)

Duplex Apartment: An apartment with rooms on two floors and a private inner stairway, shall be numbered as follows: each building shall be given its own street number and each apartment within that building shall be given its own apartment number. For example 3 Handle Road, Apt 1; 3 Handle Road, Apt 2.

Duplex House: A dwelling consisting of two separate family units that is separated from the adjoining units by a wall that extends from ground to floor shall be numbered as follows: each family unit shall be given its own street number. For example: 5 Cooper Hill Road, 7 cooper Hill Road.

Single Family Dwelling: A detached one family house, shall be given its own street number. For example: 48 Higley Hill Road.

Single Family Unit with an Apartment: A detached one family house with an apartment's hall be numbered as follows: each single family dwelling unit shall be given a street number and each apartment shall use that street number along with a respective apartment umber. For example: 37 Cheney Brook Road; 37 Cheney Brook Road, Apt 1.

§33-6
STREET SIGNS

The Selectboard, upon adoption of this ordinance, shall institute a program for the installation and maintenance of Street Name Signs in accordance with the name established by this ordinance. All signs shall be installed and maintained to the highest degree possible allowed by budget considerations.

§33-7
PENALTIES

There will be a $500.00 fine for any vandalism (stealing, defacing, or destroying) of public signs within the town of Berlin.

In the event that the owner or occupant or person in charge of any house or building refuses to comply with terms of this ordinance by notification, or by failing, within said period of sixty (60) days after to remove any old numbers affixed to such house, or house entrance, or elsewhere, which may be consumed with the number assigned thereto, he shall be punished by paying a fine of not less than ten (10) dollars, or one day in jail or every day that the situation is not rectified.

§33-8
Public Notice and Implementation

Public Notice: The Town of Berlin Selectboard shall make reasonable efforts to ensure that the public is notified of the existence of this Ordinance: Street Name and Street Addressing. The Town of Berlin shall ensure, through cooperative effort with the United States Post Office, that each property owner is notified of the ordinance.

This Ordinance: street name and Street Addressing, shall be: 1) entered into the Selectboard minutes, and 2) shall be posted in at least five (5) conspicuous places with the Town of Berlin and 3) a concise summary of the Ordinance will be published in the Times Argus not more than fourteen (53) days following the date specified below when this ordinance is adopted.

This Ordinance is hereby adopted by the Selectboard of the Town of Berlin on this 16th day December, 1996 and shall, unless a petition is filed as provided by law, become effective upon the expiration of sixty (60) days after said date.

Citizen have the right to petition for a vote on this ordinance at an annual or special Town Meeting as provided in 24 VSA section 1973.

§33-9
SEVERABILITY

If any portion of this Ordinance and amendments is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance and Amendments shall not be affected.

This Ordinance is hereby adopted the Selectboard of the Town of Berlin on this 16th day of December, 1996 and shall, unless a petition is filed as provided by law, become effective upon the expiration of sixty (60) days after said date. The Ordinance shall be published in the Times Argus on December 21, 1996, and filed in the records of the Town of Berlin.

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§36
TRAFFIC AND VEHICLE ORDINANCE
TOWN OF BERLIN, VERMONT

§36-1
GENERAL INFORMATION

The Selectboard of the Town of Berlin hereby adopts this Traffic and Vehicle Ordinance to be in effect as the date noted below pursuant to the authority granted under the Charter of the Town of Berlin,

This ordinance is established to promote public safety. This ordinance is designated a civil ordinance.

This Ordinance shall amend in its entity the Traffic and Vehicle Ordinance and amendments adopted by the Selectboard on January 02, 2001, May 07, 2010, March 18, 2012, February 6, 2017 and September 18, 2017

§36-2
SCOPE

This Ordinance establishes special traffic regulations on public highways within the Town of Berlin, Vermont

§36-3
TRAFFIC CONTROL DEVICES

Section1: It shall be unlawful for any person to disobey the direction of a traffic control device except in response to the direction of a law enforcement officer.

Section 2: It shall be unlawful for any person to intentionally remove, injure, obstruct, deface, alter, or tamper with any traffic control device.

Section 3: It shall be unlawful to install any sign or device which may resemble or be mistaken for an official traffic control device without prior approval of the Town of Berlin Selectboard.

§36-4
SPEED REGULATIONS

On the basis of traffic and engineering surveys where applicable by law, the maximum speed limits are hereby established:

Paine Turnpike:
T.H. 1: A maximum speed of 35 mph beginning at the Montpelier City line, extending southerly 3.9 miles to approximately .10 miles south of the intersection of T.H. 28 (Addison Drive); then 40 mph extending 1.24 miles southerly to approximately .53 miles south of the intersection with Town Highway 6 (Fisher Road); then 35 mph from Rte. 62 extending southerly 0.69 miles to the intersection of T.H. 40; then 35 mph from T.H. 40, extending southerly 3.61 miles to the Williamstown Town Line.

Junction Road:
T.H. 2: A maximum speed of 35 mph for its entire length.

Cox Brook Road:
T.H. 3: A maximum speed of 35 MPH for its entire length

Airport Road:
T.H. 4: A maximum speed of 40 MPH for its entire length

Scott Hill Road:
T.H. 5: A maximum speed of 35 MPH for its entire length

Fisher Road:
T.H. 6: A maximum speed of 35 MPH for its entire length

Three Mile Bridge Road:
T.H. 7: A maximum speed of 35 MPH for its entire length

Dog River Road:
T.H. 8: A maximum speed of 35 MPH for its entire length

Jones Brook Road:
T.H. 10: A maximum speed of 35 mph for its entire length

Bartlett Road:
T.H. 11: A maximum speed of 25 MPH for its entire length

Comstock Road:
T.H. 14: A maximum speed of 40 MPH for its entire length

Browns Mill Road:
T.H. 16: A maximum speed of 25 MPH for its entire length

Hill Street Extension:
T.H. 18: A maximum speed of 25 MPH for its entire length

Stewart Road:
T.H. 19: A maximum speed of 30 MPH for its entire length

Hersey Road:
T.H. 21: A maximum speed of 35 MPH for its entire length

Goodnow Road:
T.H. 23: A maximum speed of 35 MPH for its entire length

Vine Street:
T.H. 26: A maximum speed of 35 MPH for its entire length

Partridge Farm Road
T.H. 27 A maximum speed of 35 MPH for its entire length

Caledonia Drive/Bennington Drive
T.H. 28:A maximum speed of 25 MPH for its entire length

Highland Avenue
T.H. 30: A maximum speed of 30 MPH for its entire length

Chase Road:
T.H. 35: A maximum speed of 30 MPH for its entire length

Rowell Hill Road:
T.H. 39: A maximum speed of 25 MPH for its entire length

Crosstown Road:
T.H. 40: A maximum speed of 35 MPH beginning at the intersection of T.H. 1, extending westerly to 1.25 miles east of VT Rte. 12; then 25 MPH from 1.25 mile east of VT Rte. 12 westerly to the intersection of VT Rte. 12.

Brookfield Road:
T.H. 43: A maximum speed of 35 MPH for its entire length

Black Road:
T.H. 45: A maximum speed of 25 MPH for its entire length

Muzzy Road
T.H. 49: A maximum speed of 30 MPH for its entire length

Chandler Road:
T.H. 53: A maximum speed of 35 MPH for its entire length

Ayers Road:
T.H. 54: A maximum speed of 25 MPH for its entire length

Darling Road:
T.H. 55: A maximum of 25 MPH for its entire length

Addison Drive:
T.H. 56: A maximum speed of 25 MPH for its entire length

East Road:
T.H. 57: A maximum speed of 35 MPH for its entire length

Granger Road:
T.H. 62: A maximum speed of 35 MPH for its entire length

Mirror Lake Road:
T.H. 63: A maximum speed of 35 MPH for its entire length

Pine Hill Drive:
T.H. 71: A maximum speed of 25 MPH for its entire length

Industrial Lane
T.H. 73: A maximum speed of 25 MPH for the entire length.

Paul Avenue/Cecile Avenue:
T.H. 75: A maximum speed of 30 MPH for its entire length

Point Ridge Road
T.H. 78 A maximum speed of 25 MPH for its entire length

Plateau Drive
T.H. 79: A maximum speed of 25 MPH for its entire length

Berlin Heights
T.H. 81 A maximum speed of 25 MPH for its entire length

All Town Highways maintained and open to the circulation of motor vehicles traffic not listed in the above posted ordinance shall remain at a posted speed of 35 mph

State Highways located within the Town of Berlin are hereby adopted as part of this Ordinance as well as their respective speeds as established pursuant to V.S.A. 23 §1003 (a)

1. Rt. 302 (from Montpelier City Line to Barre City Line)
2. Rt. 12 (from Montpelier City Line to Northfield Town Line)
3. Rt. 2 (from Montpelier City Line to Barre Town Line)
4. Airport Road from Junction of Route 62 to Airport Driveway

For State Highways, other than on limited access highways, local speed limits shall be as posted by the Vermont Agency of Transportation.

§36-5
STOP AND YIELD INTERSECTIONS

Section 1: The following intersections shall be designated as STOP intersections and shall
Be so signed:

T.H. 2 Junction Road entering T.H. 7 Three Mile Bridge Road
T.H. 5 Scott Hill Road entering T.H. 4 Airport Road
T.H. 6 Fisher Road entering T.H. 1 Paine Turnpike
T.H. 8 Dog River Road entering VT Route 12
T.H. 10 Jones Brook Road entering T.H. 7 Three Mile Bridge Road
T.H. 11 Bartlett Road entering T.H. 2 Junction Road
T.H. 12 Lord Road entering VT Route 12
T.H. 16 Brown's Mill Road entering VT Route 12
T.H. 14 Comstock Road entering T.H. 1 Paine Turnpike
T.H. 18 Hill Street Extension entering T.H. 40 Crosstown Road
T.H. 19 Stewart Road entering T.H. 1 Paine Turnpike
T.H. 20 Richardson Road entering T.H. 1 Paine Turnpike
T.H. 21 Hersey Road entering US Route 302
T.H. 28 Caledonia Drive entering Hersey Road
T.H. 29 Midway Avenue entering US Route 302
T.H. 30 Highland Avenue entering US Route 302
T.H. 35 Chase Road entering VT Route 12
T.H. 39 Rowell Hill Road entering T.H. 40 Crosstown Road
T.H. 39 Rowell Hill Road entering VT Route 12
T.H. 40 Crosstown Road entering T.H. 1 Paine Turnpike
T.H. 40 Crosstown Road entering VT Route 12
T.H. 46 Coos Trail entering T.H. 4 Airport Road
T.H. 47 Murray Road entering VT Route 12
T.H. 48 School Street entering VT Route 12
T.H. 49 Muzzy Road entering VT Route 12

T.H. 52 West Hill Road entering T.H. 53 Chandler Road
T.H. 53 Chandler Road entering VT Route 12
T.H 54 Ayers Road entering VT Route 12, both north & south End
T.H. 55 Darling Road entering VT Route 12
T.H. 56 Addison Drive entering T.H. 28 Caledonia Drive
T.H. 56 Addison Drive entering T.H. 1 Paine Turnpike
T.H. 57 East Road entering T.H. 5 Scott Hill Road
T.H. 57 East Road entering VT Route 63
T.H. 60 Glinnis Road entering T.H. 3 Cox Brook Road
T.H. 61 Lover's Lane entering T.H. 53 Chandler Road
T.H. 61 Lover's Lane entering VT Route 12
T.H. 62 Granger Road entering T.H. 4 Airport Road
T.H. 62 Granger Road entering T.H. 14 Comstock Road
T.H. 67 Shed Road entering T.H. 40 Crosstown Road
T.H. 71 Pine Hill Drive entering VT Route 12
T.H. 72 Walker Road entering T.H. 40 Crosstown Road
T.H. 73 Industrial Lane entering T.H. 4 Airport Road
T.H. 73 Industrial Lane entering T.H. 62 Granger Road
T.H. 76 Warner Road entering T.H. 4 Airport Road
T.H. 77 Neal Road entering VT Route 12
T.H. 78 Point Ridge Road entering T.H. 27 Partridge Farm Road
T.H. 79 Plateau Drive entering T.H. 78 Point Ridge Road

Section 2: The following Intersections shall be designated as YIELD Intersections and shall be so signed:

The ramp from VT Rte. 62 entering T.H. 6 Fisher Road
The off ramp from T.H. 6 entering T.H. 1 Paine Turnpike
T.H. 19 Steward Road entering T.H. 18 Hill Street Extension

§36-6
PARKING REGULATIONS

Parking a motor vehicle temporarily on Town streets is allowed with restrictions as listed below. Vehicles parked in the Town's right of way may be removed if deemed to be a hazard by a law enforcement officer. Vehicles may be subject to towing at the owner's expense if in violation of this ordinance.

1. In designated "No Parking Zones" depicted by signs.
    - TH #1-Paine Turnpike South from Junction of TH #43 Brookfield Road-westerly to TH#40 Crosstown Road on both sides of the street.
    - TH # 61-Lover's Lane-both sides between the railroad tracks to150" past the bridge.
2. Any area within proximity to a fire zone or emergency vehicle access.

3. In any area that the parking of a motor vehicle would interfere with the normal flow of traffic or obstruct the movement of other vehicles.
4. Alongside or opposite any street excavation or construction when such parking would obstruct traffic.
5. During snow removal operations
6. Within fifteen feet of an intersection.
7. On or within 5 feet of a crosswalk.
8. On a sidewalk
9. Within 10 feet of a fire hydrant.
10. Parking with the vehicle facing opposite traffic.
11. Obstructing a driveway.
12. No unregistered vehicles may be parked on any street or town right of way.
13. No vehicles may be parked on any street or town right of way when being repaired. In the case of a disabled vehicle no longer than 12 hours. while waiting for repairs.
14. Abreast of another vehicle on the street (double parking)

§36-7
PARKING FINES

Parking tickets may be issued by the Berlin Police Department. The following fines are applicable.

Handicap Zone	$100.00	Hinder Snow Removal	$ 50.00
Fire Lane	25.00	Fire Hydrant	100.00
Double Parked	25.00	No Parking Zone	50.00
Blocking Driveway	25.00	Improper Parking	25.00

§36-8
ONE WAY STREETS

The following streets shall be designated as “One Way” and shall be so signed.

T.H. 6 Fisher Road on ramp from VT Rte. 62
T.H. 6 Fisher Road off ramp from T.H. 6 to T.H. 1
T.H. 54 Ayers Road Southbound only for its entire length

§36-9
GENERAL PROVISIONS

Section 1: Each violation of a provision of this ordinance shall be deemed a separate offense.

Section 2: A person who violates a provision of this civil ordinance shall be subject to fines and penalties as set forth in the Schedule of Fines established by the State of Vermont. Enforcement

shall be in accordance with the provisions of 24 VSA § 1974a ,24 VSA § 1977, and 23 VSA, §2302

Section 3: The provisions of this ordinance are declared severable, and if any provision hereof be judged invalid, such judgement shall not affect the validity of any other provision.

Section 4: Reference is made to the General Highway maps of the Town of Berlin, prepared by the Vermont Agency of Transportation, dated 2015, for highway designations.

Section 5: This ordinance is adopted, as amended,

Date: August 20, 2018
Ordinance effective: October 19, 2018

Brad Towne	Pete Kelley
Jeremy Hansen	Angelina Capron
Wayne Lamberton	

Selectboard of Berlin

Signed copy of the ordinance is on file with the Berlin Town Clerk.

§45

TOWN OF BERLIN, VERMONT

WATER SYSTEM ORDINANCE
AND
CONSTRUCTION STANDARDS

June 3, 2016

EFFECTIVE DATE

_____

_____

_____

_____

_____

WATER COMMISSIONERS

Signed copy of the ordinance is on file with the Berlin Town Clerk.

Adopted: April 4, 2016

WATER ORDINANCE AND CONSTRUCTION STANDARDS

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CONSTRUCTION SPECIFICATIONS

02232 Protection and Repair of Property

02300 Earthwork

02301 Rock Removal

02510 Contaminated Earthwork

02511 Bituminous Concrete Pavement

02930 Lawns and Grasses

03301 Curb and Sidewalk

15123 Water Meters and Appurtenances

INDEX OF STANDARD DETAILS

Drawing No. 1 - Standard Water System Construction Details

WATER SYSTEM REGULATIONS

1. AUTHORITY

A. This Ordinance has been duly adopted by the Town of Berlin Selectboard, effective June 3, 2016 pursuant to Title 24, Chapter 89.

2. DEFINITIONS

A. BASE FEE shall mean a minimum water charge per business or residential unit, over a specified time period that is assessed to the owner of each unit regardless of metered water consumption.

B. COLD WEATHER CONSTRUCTION shall mean non-emergency construction work during the period November 15 to April 15 on the water system, especially distribution mains or service lines.

C. COMMISSION shall mean the Public Works Board or lieu of a Public Works Board, the Selectboard of the Town of Berlin will act as the Commission.

D. COMMISSIONERS shall mean the Public Works Board or lieu of a Public Works Board, the Selectboard of the Town of Berlin will act as Commissioners.

E. CORPORATION shall mean the water shut off valve attached to the water main, to which the Water Service Line is attached.

F. CROSS CONNECTION shall mean any direct or indirect pipe connection between the Town of Berlin potable water supply and any other supply of liquid or gas.

G. CURB STOP shall mean the valve on the water service line, typically at the edge of the highway right-of-way on the Customer's property, which provides a water service to the User.

H. CUSTOMER shall mean any person, firm, corporation, or governmental subdivision who is granted water service or who is responsible for payment of such water service.

I. DESIGN PROFESSIONAL. A professional Engineer registered or licensed by the State of Vermont.

J. DISCONTINUANCE OF WATER SERVICE shall mean deliberate interruption of water service by the Town to the Customer (for reason of delinquent payment, prevention of excessive water loss, to protect against contamination of the system or for tampering with water system).

K. DISCONTINUED WATER SERVICE LINE. A water service line shall be considered discontinued; when the building served by that line is demolished and no building or zoning permits for a building requiring water service is filed for a period of one year; or, when a new water service line has been installed to serve a building and use of the old service line has been abandoned.

L. DISTRIBUTION MAIN. ("Water Main" or "Main") shall mean the primary water supply pipe from which service connections are made to supply water to the Customer through the service lines.

M. EMERGENCY TERMINATION OF WATER SERVICE shall mean execution of an immediate water service shut-off due to:

a. Water leakage between the curb stop and building.
b. Discovery of a direct and unprotected cross connection.
c. Unauthorized excessive use of water.
d. Violation of special "restrictive use" orders issued by the governing body.
e. Any other situation that could contaminate the water system or significantly deplete available water in the system.

N. EQUIVALENT RESIDENTIAL UNIT (ERU) shall mean any building or specific portion separately identifiable as:

a. Equivalent in average water consumption to a single family residential unit.
b. All ERU assignments shall be as determined by the Town.

O. EXTENSION OF WATER MAIN shall mean any extension of distribution mains beyond the existing service area in accordance with the rules, regulations, standards and specifications of the Town.

P. FEE. A fee set by the Municipality or Commission.

Q. GOVERNING BODY means the Selectboard of the Town of Berlin.

R. MAY is permissive, indicating a choice. "Shall" is mandatory.

S. MUNICIPAL OFFICE shall mean the place designated by the governing body to receive applications for service, receive payments of water bills and where public notices of discontinuance of services are generated and posted, i.e., Berlin Town Office.

T. MUNICIPAL REPRESENTATIVE means a member of the Selectboard or its representative, the Town Administrator, the Town Clerk, the Town Treasurer, the Water Commissioners or the Water System Operator.

U. MUNICIPALITY means the Town of Berlin.

V. OPERATOR. The State licensed person(s) appointed by the Town and who has primary responsibility for the routine operation, maintenance, record keeping and testing of the water system.

W. PERMITTEE. A person applying for or holding any of the permits described in these regulations.

X. PERSON means an individual; owner, corporation; church; business; trust; estate; limited liability corporation; association; joint venture; government, government subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

Y. PROPERTY OWNER means the person, firm, corporation, trusteeship, or governmental agency that has title to the property that is served and ultimately responsible for payment of all rates, fees and charges.

Z. REASONABLE HOURS shall mean between 8:00 a.m. and 8:00 p.m.

AA. RESIDENTIAL UNIT shall mean a livable abode intended for a single family, which includes at a minimum, a kitchen or kitchenette, bathroom, and bedroom or other room that serves as sleeping quarters. No minimum number of rooms is required to serve those functions.

BB. SADDLE shall mean the mechanism for attaching a smaller service line to a larger service line, a circular device bolted or otherwise attached to the water main through which a hole is drilled in the water main to supply water to the service line.

CC. SHALL is mandatory. MAY is permissive, indicating a choice.

DD. SOURCE PROTECTION AREA. The drainage area contributing water to the Town sources as defined in the Town's Source Protection Plan.

EE. SUBDIVISION shall mean the division of any land, parcel, or area of land into two or more lots or parcels for the purpose of conveyance, transfer, improvement or sale, which may include appurtenant roads, streets, lanes, alleys and ways, dedicated or intended to be dedicated to public use.

FF. SUPERINTENDENT shall mean the Appointee of the Governing Body designated as responsible for management and operation of the public water system. Superintendent may be the same person as the Operator.

GG. TAP shall mean any connection of a service line or distribution main to the water main.

HH. TOWN shall mean the Town of Berlin.

II. UNCONNECTED PROPERTIES shall mean those properties which do not currently receive water service.

JJ. USER shall mean any person who is a customer and who receives water from the municipality through a service line.

KK. WATER DEPARTMENT. The words “water department” shall mean the commissioners and operators.

LL. WATER DISTRIBUTION SYSTEM. All pipes, fittings, valves, meters, pumps, hydrants, tanks and all appurtenances thereto which are physically connected to the Town water system.

MM. WATER MAIN. Water mains shall be those water pipes, serving multiple properties and located within the public right-of-way, easements acquired by the Town, or otherwise owned by the Town.

NN. WATER SERVICE LINE. The water pipe from the water main to the building foundation, including the corporation stop and the curb stop. Where there is no foundation, the water service line shall run from the water to the point where it goes into or under the building.

OO. WATER SUPPLY. The water sources of the Town water system.

PP. WATER SYSTEM. The water system and its supporting facilities, including, but not limited to the water supplies, well pump station, water storage tank, valve vaults, water mains, water services and all Town owned lands and Right-of-Ways associated with the water system facilities.

3. APPLICATION

This ordinance applies to all parts of the Town water system, whether owned by the Town or any other person.

4. OPERATOR AS SUPERINTENDENT OF WATER SYSTEM

The Water Commission (Commission), acting through the water system Operator, shall have the exclusive general management and supervision of the Town’s water works. They may prepare and keep on file as public record, such maps, plans and records as may be necessary to fully and properly show the location of all water system facilities, mains, water services lines, valves, corporation stops and other fixtures and shall turn the over these documents to their successors in office. The Commission and Operator shall have any and all powers conferred by State or Federal Law or Regulation such as powers relate to the operation of a water system.

5. CONNECTION FEES

A connection fee shall be due and payable to the municipality before a new service connection is constructed and only after the Water Commission has approved the connection. Water service will not be provided until a water meter, meeting the Town's specifications has been installed in the building to be served.

The amount of the fees shall be established by the Commission, which is authorized to establish or amend water connection fees from time to time by resolution. In addition to installation of a water meter, backflow prevention, as requested by the Town, shall be the responsibility of the property owner.

The property owner shall provide:

a. The water meter.
b. A backflow prevention device.
c. Pressure reducing valve required (generally if incoming pressure exceeds 80 psi).
d. Excavation of the distribution main and tapping location. All work done on or around the water line must be done by qualified personnel approved by the Operator and meeting all AWWA standards.
e. Saddle, corporation, water service piping to curb stop, and curb stop.
f. Labor and materials to install water service line from water main into the building.
g. Labor and materials for all backfill including sand or stone fill around piping as required. Inspection and approval of waterline by Operator is required prior to backfill.
h. Interior shut-off ball valve on the building's water service line.

In order to determine the correctness of the work, inspections must be made by the Operator. The first inspection shall be made upon completion of the installation, but prior to covering the work. The second inspection shall be made upon restoration of the disturbed area. Inspection of the water meter shall be made before water service is initiated. It is the responsibility for the permittee to coordinate these inspections.

A schedule of fees shall be attached to the application form, said fees to be set by the Commission.

6. WORK COMMENCING BEFORE PERMIT ISSUANCE

A. Any person who commences any work on a connection or other work on the water system before obtaining the necessary permit as described herein shall be subject to a fee equal to (2) times the usual permit fee, in addition to the required permit fee.

B. If, in the opinion of the Commission, such unpermitted work constitutes, or may constitute, a hazard to the water supply, additional action may be taken against that person, including but not limited to disconnection of the water service (or water main extension) and legal action.

7. PERMITS FOR CONSTRUCTION OF WATER SERVICE LINES, EXTENSIONS OR ADDITIONS TO THE WATER SYSTEM

A. Application for service shall be made in writing to the Commission, on forms furnished by the Municipality. The property owner, who shall be responsible for payment of the connection fee and subsequent charges, shall make such application.

B. Permit Required

Unless otherwise authorized by the Commission, no person shall attach any pipe or other appurtenance to the Town water system, or make any alterations or extensions of, or additions to, the water system or water service line, on or off of his/her property, without first applying to the Commission for a permit to do so. No work shall be started until the application has been approved by the Commission and a permit issued.

C. Application for Permit

1. Each application for a permit, with the required fee, shall be filed with the Town on a form furnished for that purpose.

2. The application for a permit to install, alter, or extend a water service line, not used for a sprinkler system, shall be accompanied by a plan of sufficient clarity and detail to show the intended work. Reference must be made to materials in the Town's Construction Standards. All proposed work shall be in accordance with the Vermont Water Supply Rule.

3. The application for a permit to extend a water main, or to provide water service for a sprinkler system, shall be accompanied by no fewer than two copies of design construction documents prepared by a Design Professional. These documents shall be drawn to scale with sufficient clarity and detail to demonstrate compliance with the requirements of these regulations and shall be sealed and certified by the Design Professional.

4. The Commission may waive or vary the requirements for filing Design Construction Documents where the work involved is minor, in the sole opinion of the Commission.

D. Permit Issuance

1. The application, design construction documents and other data submitted shall be reviewed by the Commission. The Commission may authorize an independent review by a professional engineer retained by the Town. The cost of such professional review shall be in addition to the Permit fee and paid to the Town prior to issuance of the Permit. If the Commission finds that the proposed work conforms to the requirements of these regulations, and that the required fee has been paid, a permit may be issued.

2. In cases where a State Construction Permit is required under the Vermont Water Supply Rule, a copy of the duly issued permit together with copies of the supporting documentation presented to the State in support of that permit application shall be submitted to the Commission for review prior to the Commission's issuance of the permit.

3. When the Commission issues the permit, the approved design construction documents shall be marked "APPROVED" and a copy retained by the Town. Any other copies shall be returned to the permittee.

E. Design Standards

Design standards for construction of an extension or addition to the Town water system shall comply with the State of Vermont Water Supply Rule, the Construction Standards attached to these regulation and any special conditions as required by the Commission.

F. Coordination with Other Authorities

The Permit issued by the Town shall only indicate compliance with this Ordinance. It does not indicate compliance with the permitting requirements or other approval processes of any other authority having jurisdiction over the work, such as zoning or subdivision regulations or other State or Federal agencies. It shall be the responsibility of the permittee to insure that all required permits and other approvals are obtained.

G. Inspections

A Design Professional or their designated representative, retained by the permittee, shall periodically observe the construction of the water system components to determine if the construction of the water system components is in conformance with the approved design construction documents. All discrepancies shall be brought to the attention of the contractor for correction. Records shall be kept of all inspections and testing, and made available to the Town, if requested.

H. Record "As-Built" Construction Documents

1. A Design Professional shall submit two copies of a final report in writing to the Commission upon completion of the work, certifying as to whether or not the installation complies with the approved design construction documents. If the installation does not fully comply, the report shall clearly indicate the areas of non-compliance. Failure to comply with the approved design construction documents may result in disapproval of the work by the Town.

2. The above mentioned report shall be accompanied by two copies of Record "As-Built" construction documents, drawn to scale and certified by a Design Professional as to their accuracy. These documents shall clearly show the materials and locations of all portions of the work together with measurements from permanent objects (e.g. building corners) to the major components of the installation and the depth or elevations of those components. Where depths are shown, they shall be referenced to a permanent, conveniently located benchmark which shall be clearly shown on the documents.

I. Approval

Upon receipt of two sets of "As-Builts" construction documents satisfactory to the Commission and subject to any review and field inspections deemed necessary by the Commission, a Notice of Approval shall be provided to the Permittee. No extension, modification, or addition to the water system shall be used before such approval is granted by the Commission.

8. SERVICE LINES

A. Service Line Requirements

1. Following adoption of this Ordinance, no more than one building shall be served by any water service line.

2. Where specific portions of a single building are owned by different persons, (e.g. a condominium building) each portion shall be served by a separate water service connection. This requirement may be waived by the Commission in cases where, in the board's judgment, the installation of separate services is physically unfeasible, subject to the conditions cited in Section 8.A.3.

3. The requirements specified in Section 8.A.2. may be waived only when, in addition to meeting the physical unfeasibility requirement, a financially responsible organization exists (e.g. a Condominium Association) which will accept the responsibility for the maintenance of the water service and for the payment of all water and sewer charges which are based upon water use. In such cases, the bills will be sent directly to the responsible organization. Not withstanding, all real estate furnished with water shall be subject to lien proceedings for nonpayment of bills as provided in Section 18.B. of this Ordinance.

B. Maintenance Responsibility

1. That portion of the service line from the main to and including the curb stop shall be the maintenance responsibility of the Town. In the absence of a curb stop, or in the case the curb stop is on private property, the Town's responsibility shall extend to the property line. All repairs and required replacements of the service line from the water main to the curb stop or property line are to be performed by the Town or its designee as authorized by the Commission, except that replacements of a water service line with a service pipe of a larger diameter shall be entirely at the expense of the property owner.

2. Repairs and replacements of the remainder of the water service line, from the curb stop or property line to the building, are the responsibility of the property owner. The Town will neither perform the work nor pay for same.

3. A permit as described in Section 7 above is required before any repair and/or replacement of the water service line, whether on public or private property, is started. Where all of the work is to be done by the permittee on private property, the construction fee will not be required. Except in cases of emergency, the permittee shall notify the Operator at least 7 days before the start of the work in order to allow ample time for the Town to mark out its buried utilities, if any, in the area of the work. It shall be the responsibility of the permittee to coordinate with all other utilities or persons affected by the work and to provide the notification to "Dig-Safe" and/or any other utility locating services as required by law, rule or other regulation(s). The Town marks out only the utilities belonging to the Town, typically sewer, water and storm sewer. The Town does not mark out telephone, electric, cable TV or any other pipes, cables or conduits.

C. Turn-ons and Turn-offs

1. The curb stop to any building shall be operated only by the Town. Should a property owner request a turn-on or turn-off, a permit issued by the Commission, or its designee(s), is required before such operation will be performed. Application for a permit to turn off the water to a building must be made by the property owner or their authorized representative.

2. Not withstanding the above, in the event of an emergency, the Operator may turn off, or on, a water service prior to the issuance of a permit. It shall be the property owner's responsibility to obtain a permit for that turn-off or turn-on within one business day.

3. A permit fee shall be charged for each turn-on or turn-off which occurs during regular workday hours except that when a turn-off and turn-on occur for the same service within forty-eight hours and both are during regular business hours only one fee shall be charged.

4. A turn-off or turn-on which occurs outside of the regular workday hours shall be billed to the property owner as overtime work, if applicable.

D. Frozen Water Service Lines

1. Each person served by the water system shall take precautions to

prevent his or her water service from freezing.

2. The Town shall not be liable for any property damage due to the freezing or thawing of service lines.

E. Protection From Freezing

1. When, in the opinion of the Town, extended cold weather increases the risk of water main or service line freezing, the Commission may authorize or request certain water users to let water run in order to minimize such risk. The Commission shall keep a list of such users. When so authorized, the water and sewer bill for that usage period, if based on metered service, will be adjusted to reflect the historic usage for that period for the accounts on the aforementioned list.

2. Water users who have reason to believe that their service is in danger of freezing may apply to the Commission for authorization to let the water run as noted above.

3. No adjustments of billing will be made for water left running to prevent freezing of any pipes other than the water service line. (e.g., interior plumbing.)

9. DISCONTINUED WATER SERVICE LINES

A. Disconnection Required

All discontinued water service connections shall be disconnected from the water main and capped, or, with the approval of the Commission, the Corporation on the main turned off and the service line "tail" capped. The work shall be done only by the Town, or its designee, as authorized by the Commission. The cost of said work to be borne by the permittee.

B. Permit Required

Disconnection of water service requires a permit from the Town.

10. INSPECTIONS

A. Right to Inspect

Any duly authorized employee or agent of the Town may, at reasonable hours and with proper notification, enter any premises supplied with water to inspect pipes, meters, fixtures, and other appurtenances which are used in connection with the water meter. It shall be the duty of every person supplied water by the system to provide Town access, as previously described, and answer inquiries made by the Operator in regard to the quality, quantity, purposes and manner in which the water is used on the premises. Failure of the Owner to provide such access or information to the Town shall be subject to discontinuation of water service, or other penalties, as permitted by law.

B. Emergency Disconnection

If the Town has reason to believe that a situation exists on a property that could cause an imminent hazard to the water system, the water service for that property may be turned off, without notice, until such time the hazard is confirmed not to exist.

11. WATER METERS

A. Mandatory Water Meters

1. Water for all purposes, other than fire protection systems, is provided, from the Town to water users, only through metered connections. No buildings will be provided water service without installation of sufficient water meter(s) to accurately measure water consumption, unless approved by the Commission.

2. Should an existing building be served water without a water meter, a water meter shall be installed upon order of the Town or as a condition of transfer of title of the property.

B. Installation of Meter

1. Subject to the exception listed below, each new water service, which is not devoted exclusively to fire protection, shall be metered. The property owner shall provide an accessible, secure, frost-free location for the water meter. In cases where such a location cannot be provided, water for that property will be metered in an underground meter vault, constructed to the Town's standards.

2. In accordance with Section 5, water meter assemblies shall be supplied and installed meeting the Town's standards.

3. It shall be the responsibility of the property owner to provide and install valves necessary to isolate the water meter before the water meter is installed. Either one or two interior valves will be required, depending upon the size of pipe and the complexity of the plumbing system.

4. Each water meter shall be sealed by the Town and inspected by the Town prior to use.

C. Location of Water Meters

1. Water meters shall generally be located inside the customer's building unless a location is not physically available for adequate installation and maintenance, in the Town's opinion. If no location is available, the meter shall be located in a meter vault, as approved by the Town.

2. If the water service line is greater than 200 feet in length, the water meter shall be located in a meter pit at the curb stop in order to account for potential water service leakage.

D. Protection of Water Meter

1. It shall be the property owner's responsibility to protect the water meter from damage, including damage from freezing. This provision also applies to meters in meter vaults.

E. Tampering with or Obstructing Water Meter

1. No person shall tamper with, bypass, remove the meter seal or any part of the meter itself or in any way injure any water meter or any of its appurtenances.

2. No person shall construct or place anything in any manner to obstruct or hinder free access to any water meter or water meter register.

3. The property owner shall be responsible for the protection of the water meter and its seal from tampering, removal or injury.

F. Penalty for Water Meter Tampering

1. First Offense: The account holder shall be billed a penalty in the amount of twice the historic water bill, over the period of tampering, at the current water rates. In no case shall the period of tampering be considered as being less than one billing period.

2. Additional Offense: The billing procedure will be changed from a metered account to a flat rate account with the number of occupants to be considered as being two times the number of bedrooms, in the case of a residence; and/or the usage considered to be the estimated usage as shown in the Vermont State Environmental Protection Rules for non-residential users, to be billed at the current metered rates for water service.

12. WATER MAINS AND APPURTENANCES - OPERATION, REPAIRS AND REPLACEMENT

The operation, repair, replacement and maintenance of all water mains, valves, and other appurtenances of the water system shall be done only by the Town or it's designee as authorized by the Commission. The costs of such work on portions of the water system owned by the Town shall be paid by the Town. The costs of such work on portions of the water system owned by any other person shall be the responsibility of that person. Nothing herein shall prohibit the Town from recovering the costs of repairs or replacement and/or other damages resulting from the actions of any other person from that person.

13. LAWN SPRINKLERS

Lawn sprinklers shall not be converted into fountains or jets, or be allowed to run to waste, but must be kept closed except when in use for sprinkling as intended.

14. USE OF WATER FOR UNAUTHORIZED PURPOSE

No person shall give away, resell or use any water from the Town water works, for any other purpose than that for which payment has been made; nor allow the water to be wasted from fixtures out of repair or otherwise. The Commission or Operator may turn off the water to the premises of any person who shall violate any of the provisions of this section, and such offender shall be deprived of the use of the water until he/she shall have paid to the Town a fee for turning off and another fee for turning on the water and shall have made all necessary repairs.

15. TURN-OFFS FOR REPAIRS OR DROUGHT; NOTICE TO USERS

The Town or Operator shall have the right to turn off water for the purpose of making extensions, alterations or repairs, or on account of any accident to the water system, or in case of violation of these regulation or neglect to pay the service rates when due, and in case of drought or threatened quality or scarcity of water, to diminish or stop the supply without any claim for abatement or damage for loss of water. When the Town or Operator shall have cause to turn off the supply of water on any line for repairs, they shall make a reasonable attempt to notify the water consumers on the line of pipe to be turned off, stating as nearly as possible the length of time such supply will be turned off; provided, however, in the case of sudden breaks or other emergency, the water may be turned off without notice.

16. FIRE HYDRANTS

A. Inspection and Maintenance

The Town shall periodically examine fire hydrants belonging to the Town and keep them in working order at all times, except when turned off for repairs; and shall cause all defects therein to be repaired without delay.

B. Notice to Fire Department of Hydrant Turn-Offs

Notice, in advance if possible, shall be given to the Town Fire Department in the event the supply of water to a fire hydrant is disconnected. Notice shall also be given to the Fire Department when the hydrant is again in working order.

C. Permission to Draw Water from Hydrants

No person shall operate any fire hydrant or draw water therefrom, except under the direction of the Water Commission or Operator. This shall not apply to use of hydrants in an emergency by the Fire Department or other duly authorized municipal fire department.

D. Privately Owned Fire Hydrants

Persons owning private fire hydrants served by the Town water system will be governed in all cases by these regulations, including Section 16.C. above, "Permission to Draw Water from Hydrants". Reasonable requests for testing private hydrants or pipes will be granted on application by the Commission. All such hydrants and other appurtenances shall be open to inspection by agents of the Town at all times, and may be opened by an insurance inspector to ascertain if the water is on and the hydrants or pipes are in working order. Notice of such opening shall be given to the Commission within 24 hours in advance by any such insurance inspector.

E. Testing of Fire Hydrants

1. Permit Required: No person shall test a fire hydrant, whether public or private for fire flow determination or any other purpose, without first applying to the Commission for permission to do so. No testing shall be conducted until authorized by the Commission or Operator.

2. Conduct of Test/Report

a. Permittee is to coordinate the time and date of flow test with the Operator at least one week prior to test.

b. While every effort will be made to honor commitments, permittee is advised that any scheduled flow test may be postponed or cancelled by the Operator or Water Department without notice in the event of an emergency affecting the water system.

c. Permittee is to perform the flow test and provide all necessary equipment.

d. Operation of public hydrants is to be by Town personnel only.

e. Hydrant flow tests shall be allowed only when the air temperature is above 40°F unless otherwise specifically approved by Town.

f. A copy of the flow test results shall be provided to the office of the Town upon completion of the test.

17. TAMPERING, ETC. WITH PROPERTY BELONGING TO TOWN

No person shall damage, disturb, remove, or in any way injure any hydrant, valve, valve box or cover, meter, valve, curb stop or cover, pipe, apparatus, fixture, building, machinery or fence belonging to the Town Water Department, nor place anything in such a manner as to obstruct or hinder free access to any valve, hydrant or meter.

18. WATER RATES/BILLING

A. Establishment of Water Rates

The Commission shall establish rates to be paid for the use of water supplied by the Town water works including connection and disconnection as applicable.

B. Water Bills

1. All delinquent water bills become a lien upon real property, pursuant to 24 VSA, Section 3306. Fees shall be determined pursuant to the Uniform Water and Sewer Disconnect, Chapter 129 of Title 24, Section 5151 of the Vermont Statutes Annotated.

2. All water services shall be billed to the owner of the property served, and all bills shall be due and payable upon presentation. The bills must be

paid within thirty (30) days, and shall be rendered on a regular basis as authorized by the Selectmen.

3. All service is subject to disconnection under the terms of Chapter 129 of Title 24 of the Vermont Statutes Annotated (Uniform Water Sewer Disconnect) as amended from time to time. Charges for disconnection and reconnection shall be in accordance with the limits allowed by law.

4. Bills for water service are due and payable to the Town Treasurer when received as indicated on the statement and shall be considered delinquent when unpaid 30 days following the postmark on the envelope.

Water service may be discontinued: 1) by reason of nonpayment of water bills; 2) to eliminate a health hazard; 3) for violation of any special order restricting water use, 4) as specified elsewhere in this Ordinance, and/or; 5) for fraudulent use of water.

If the customer requests a hearing, one shall be held within ~~five~~ 15 business days of the request to determine if water service will continue to be denied, or if to be restored, then under what conditions. Service, once discontinued, shall not be restored until the reason for discontinuance of service has been eliminated.

Before service is discontinued for delinquency of payment, the Town shall follow the procedure set forth in 24 V.S.A. Chapter 129.

Notice for payment request and shut-off will be mailed at least 14 days in advance of shut-off date. Shut-off on account of delinquency of water rate payment will not be made on a day immediately preceding a Saturday, a Sunday, or a state or federal holiday.

C. Estimated Bills

In a case where, for whatever reason, a reliable water meter reading has not been obtained and an effort has been made by the meter reader to obtain such reading, an estimated billing for the period will be sent to the account holder. The estimated bill will be based upon the historical usage at the property in question and shall have the effect of an actual billing insofar as collection procedures are concerned.

D. Responsibility of Owners for Tenants

Property owners shall be responsible for the water use of tenants such that new tenants will not be entitled to a supply until all arrearages are paid. When water is supplied to more than one party through a single tap, the water may be shut off in case of nonpayment to the Town.

19. CONTROL OF CROSS CONNECTIONS AND BACKFLOW

A. Responsibility

The Town shall be responsible for the protection of the public potable water distribution system from the contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the Town an approved backflow prevention assembly is required at the property owner's water service connection; or, within the property owner's private water system for the safety of the water system, the Town or its designated agent shall give notice in writing to said property owner to install such an approved backflow prevention assembly(s) at a specific location(s) on his premises. The property owner shall install such an approved backflow prevention assembly(s) at the property owner's own expense within the time schedule required by the notice; and, failure, refusal or inability on the property owner to install, have tested and maintained said assembly(s) shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

B. Water System

The water system shall be considered as made up of two parts: The Town's owned system and the property owner's system.

The Town's system shall consist of the supply facilities and distributions system; and shall include all those facilities of the water system under the complete control of the Town, up to the point where the property owner's system begins. While the Town is ultimately responsible for water quality to the "last tap" on the municipal system, the last tap shall be considered the last point on the system where water enters into a building and is registered at a water meter.

The supply shall include all components of the facilities utilized in the production, treatment, storage, and delivery to the property owner's system.

The distribution system shall include the network of conduits used for the delivery of water from the source to the property owner's system.

The property owner's system shall include those parts of the facilities beyond the termination of the Town's distribution system, which are utilized in conveying potable water to points of use. For the purpose of this Ordinance, the property owner's system shall begin at the downstream side of the curb stop or gate valve (generally located at/near the property line) and proceed to, and into, the building.

C. Policy

The property owner's system shall be open for inspection at all reasonable times to authorize representatives of the Town for the purposes of inspection, observation, measurement, sampling, testing and maintenance, and to determine whether unprotected cross-connections or other structural or sanitary hazards, including violations of these regulations exist. If a property owner, resident or occupant denies the Town or other duly authorized employees of the Town access after reasonable notice has been provided to the property owner, resident or occupant, the Town may direct disconnection on forty-eight (48) hours written notice to the owner, resident or occupant. Once water service has been disconnected it will not be restored until access has been provided and the Town has been paid all applicable charges. When a backflow condition becomes known,

the Town shall deny or immediately discontinue service to the premise by providing for a physical break in the service line until the property owner has corrected the condition(s) in conformance with the Rules and Regulations of the Town relating to water supplies and the regulations adopted pursuant thereto. Subject to these Rules and Regulations, the Town shall have the authority to terminate any water service connection to any facility where cross connections are found to be in non-compliance. If necessary, water service shall be disconnected for failure to test or maintain backflow prevention devices in a manner acceptable to the Town. If it is found that the backflow prevention device has been removed or bypassed or otherwise rendered ineffective, water service shall be discontinued unless corrections are made immediately.

An approved backflow prevention assembly shall also be installed on each service line to a property owner's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:

1. In the case of premises having an auxiliary water supply not being placed in service until the auxiliary water supply is physically and permanently disconnected from the plumbing system in a manner approved by the Town.

2. In the case of premises on which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line commensurate with the degree of hazard.

3. In the case of premises having (1) internal cross-connections that cannot be permanently corrected or protected against, or (2) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing a backflow prevention assembly(s) in the service line, at the Owner's expense.

The type of protective assembly required under subsections C1, C2 and C3 above shall depend upon the degree of hazard, which exists as follows:

1. In the case of any premises where there is auxiliary water supply as started in subsection (a) above of this section and is not subject to any of the following rules, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly.

2. In the case of any premises where there is water or substance that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve backflow prevention assembly.

3. In the case of any premises where there is any material dangerous to health, which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

4. In the case of any premises where there are unprotected cross-connections, either actual or potential, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly at the service connection.
5. In the case of any premises where, because of security requirements or other prohibitions or restrictions, it impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected by an approved air gap or an approve reduced pressured principle backflow prevention assembly on each service to the premise.

Any backflow prevention assembly required herein shall be a make, model and size approved by the Town. The term “Approved Backflow Prevention Assembly” shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association entitled:

AWWA/ANSI C510-92[1] Standard for Double Check Valve Backflow Prevention Assemblies;

AWWA/ANSI C511-92[1] Standard for Reduced Pressure Principle Backflow Prevention Assemblies;

And, have met completely the laboratory and field performance specification of the foundation for Cross-Connection Control and Hydraulic Research for the University of Southern California (USC FCCCHR) established in:

Specifications of Backflow Prevention Assemblies- Section 10 of the most current edition of the *Manual of Cross-Connection Control*.

All domestic backflow prevention devices, with the exception of residential dual check valves, shall be installed and repaired in accordance with local, state, and federal regulations, which may require persons performing repairs to hold a professional license and certification, except for backflow prevention devices installed on fire protection systems. A licensed fire sprinkler contractor is responsible for all work conducted on a fire protection system, including the installation, maintenance and repair of backflow prevention devices.

It shall be the duty of the property owner at any premise where reduced pressure backflow prevention assemblies are installed to have a field test performed by a certified backflow prevention assembly tester upon installation and at least twice per year. It shall be the duty of the property owner at any premise where testable double check valve assemblies are installed to have a field test performed by a certified backflow prevention assembly tester upon installation and at least once per year. It shall be the duty of the property owner at any premise where pressure vacuum breakers are installed to have a field test performed by a certified backflow prevention assembly tester upon installation and at least once per year. In those instances where the Town deems the hazard to be great enough the Town may require field tests at more frequent intervals. These tests shall be at the expense of the water user. These assemblies shall be repaired, overhauled or replaced, and retested at the expense of the property owner whenever said assemblies are found to be defective. Records of such tests, repairs and overhaul shall be made available to the Town within fourteen (14) days of completion of the test.

All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved devices for the purposes described herein at the time of installation and which have been properly

maintained, shall, except for the testing and maintenance requirements stated within these rules be excluded from the requirements of these rules so long as the Town is assured that they will satisfactorily protect the Town's water system. Whenever the existing device is moved from the present location or requires more than the minimum maintenance or when the Town finds that the maintenance constitutes a hazard to health, the unit shall be replaced with an approved backflow prevention assembly meeting the requirements of this section.

D. Approved Backflow Prevention Devices

Approved backflow prevention devices shall be located so as to provide containment protection, and may be supplemented with the installation of in-plant protection backflow protection devices.

Only backflow devices approved by the Town shall be used.

All approved devices shall allow for accurate testing so as to allow verification of their performance.

In general, protection shall be provided by an air gap or a Town approved RPZ, or DCV with the manufacturer approved inlet and outlet control valves and four test cocks as a complete unit, installed in a horizontal alignment, unless otherwise approved by the Commission.

The Town reserves the right to prohibit the use of any cross connection protection devices if the Town determines that such device is found, after subsequent review, to be defective or to have performed inadequately in the field.

No person shall remove or contract with another person for the removal of any required backflow protection device without obtaining the approval of the Town for the removal of said device first.

If an RPZ, DCV, or PVB cannot be removed from service for maintenance and testing, then a second device of the same type shall be installed in parallel so as to permit inspection and repair of either unit.

The assembly should be sized hydraulically, taking into account both the volume requirements of the service and the head loss of the assembly. Refer to manufacturers head loss curves.

Every backflow prevention device up to two inches (2") shall be installed with full port ball type shutoff valves approved by the manufacturer.
All RPZ, DCV, and PVB assemblies shall meet the standards established by at least one of the following organizations:

ASSE

AWWA

USC Specifications

E. Acceptable Devices for Types of Hazards

Only the following types of backflow prevention devices shown below shall be used for the containment of on-premise hazards for low and high hazard situations respectively:

Low Hazard	High Hazard
1. Air gap	1. Air gap
2. Atmospheric vacuum breaker	2. Reduced pressure/backflow device

(Where bacteria hazards aren't present) 3. Or combination of the above

3. Pressure vacuum breaker
4. Double check valve assembly
5. Reduced pressure backflow device
6. Or combination of the above

Any domestic, commercial, institutional, and fire protection service line, including each line of a multiple service line, and a multi family building serving more than two units shall be equipped with an approved backflow device or an approved air gap separation on each line. All other connections to the water main, including standpipes leading to elevated tanks, temporary ferules, hose connections, and irrigation systems shall be equipped with approved backflow prevention devices.

Approved backflow prevention devices shall be located so that protection of all cross connections is achieved with a minimum number of devices.

An approved backflow assembly shall be installed to any premise where multistoried (more than two stories) buildings such as a hotel, apartment house, offices, etc. are operated or maintained. An approved air gap or RPZ shall be installed where there is a potential health, contamination, or system hazard. A DCV shall be installed where there is only a pollutional hazard.

A backflow prevention device shall not be installed in locations where the device is subject to corrosive fumes, grit, sticky, or abrasive liquids. The device shall be protected against mechanical abuse. All devices shall be installed so they are easily accessible for testing and repair, and inspection.

Each backflow preventer installed in a building shall be located in a room or structure that is well lighted, properly drained, and not subject to flooding.

All assemblies shall be adequately supported and/or restrained to prevent lateral movement. Pipe hangers, braces, saddles, stanchions, piers, etc., shall be used to support the device and should be placed in a manner that will not obstruct the function or access to the relief valve.

F. Backflow Prevention Assembly Installations

1. Reduced Pressure Principal Backflow Preventers (RPZ)

All RPZ assemblies shall be installed in accordance with the manufacturer's specifications and the following Department requirements:

a. All RPZ assemblies must be purchased and installed with the manufacturer's approved full port inlet and outlet control valves and four (4) test cocks as a complete package unit.

b. This assembly shall be installed a minimum of twelve inches (12") from the floor to the lowest part of the device, and a maximum of sixty inches (60") above the surrounding ground or floor to the top of the device. A minimum of twelve inches (12") of clear space shall be maintained above the assembly to allow for servicing check valves and for operation of shut-off valves.

c. The assembly shall be installed a minimum of twelve inches (12") away from the nearest wall. Also, the manufacturer must state if the device has been approved for use in either the horizontal or vertical flow up or down configuration.

d. Brass ¼" adapters shall be installed on each test cock of the device.

e. The water service line must be thoroughly flushed before installing the assembly.

f. If continuous, uninterrupted water service is desired, two smaller RPZ assemblies may be installed in parallel. When the RPZ's are used in parallel, the total rated capacity of the assemblies must equal or exceed the capacity of the main feed line. A bypass around the RPZ is not permitted.

g. The assembly must be sized hydraulically to avoid excessive pressure loss.

h. Where possible, an approved RPZ assembly shall be installed within a building on the service connection after but close to the meter. In certain cases, a backflow prevention assembly may be installed at an alternative location such as outdoors or at the discharge side of a booster pump. The device shall be protected from freezing, flooding, and vandalism. Access for routine testing and maintenance shall be provided. RPZ's shall not be installed in pit locations.

i. Drinking and domestic water lines, lines for safety showers, and lines for eye wash units must be taken off the upstream side of RPZ assemblies for those devices installed as in-plant protection.

j. There shall be no outlet, tee, tap, or connection of any kind to or from the supply line between the meter and the backflow prevention device.

k. If the device is to be used on a hot water line, a device approved for use at the elevated temperature must be used.

l. The drain to the relief port must have an approved air gap separation between the port and drain line, at least twice the internal diameter of the discharge line. A drain, capable of handling the maximum flow from the relief port shall be provided. RPZ's should be located in a location where water spillage is not objectionable.

m. While not effective in all cases, the installation of a soft seated check valve assembly immediately ahead of the RPZ will often

hold the pressure constant to the assembly in times of fluctuating pressure supply. This fluctuating pressure supply could cause nuisance dripping and potential fouling of the assembly if left without a soft-seated check valve.

n. Provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e. the installation of thermal expansion devices and/or pressure relief valves.

In any of the above installation criteria, the owner must be made aware of the potential for water damage in the event of a discharge.

G. Approved Air Gap (AG)

An air gap is an unobstructed separation through free atmosphere between the lowest opening from any pipe or outlet supplying water to a tank, plumbing fixture, or other device from the flood-level rim of the receptacle. The air gap is the most reliable means of backflow protection.

1. The air gap must be installed with a minimum separating distance of at least two times the diameter of the water supply pipe (measured vertically above the flood level rim of the receptacle). In no case however, shall the separation be less than one inch.

2. The separation distance must be measured from the lowest point on the pipe or outlet supplying water to a receptacle.

H. Double Check Valve Assembly (DCV)

All DCV assemblies shall be installed in accordance with the manufacturer's specifications and the following Department requirements:

1. All DCV assemblies must be purchased and installed with the manufacturer's approved full port inlet and outlet control valves and four (4) test cocks as a complete package unit.

   a. This assembly shall be installed a minimum of twelve inches (12") from the floor to the lowest part of the device, and a maximum of sixty inches (60") above the surrounding ground or floor to the top of the device. A minimum of twelve inches (12") of clear space shall be maintained above the assembly to allow for servicing check valves and for operation of shut-off valves.

   b. The assembly shall be installed a minimum of twelve inches (12") away from the nearest wall. Also, the manufacturer must state if the device has been approved for use in either the horizontal or vertical flow up or down configuration.

   c. Brass ¼" adapters shall be installed on each test cock of the device.

   d. The water service line must be thoroughly flushed before installing the assembly.

   e. All domestic service lines tapped from sprinkler services for commercial and/or industrial buildings shall have a DCV installed as a minimum backflow preventer device.

   f. If continuous, uninterrupted water service is desired, two smaller DCV assemblies may be installed in parallel. When the DCV's are used in parallel, the total rated capacity of the assemblies must equal or exceed the capacity of the main feed line. A bypass around the DCV is not permitted.

   g. The assembly must be sized hydraulically to avoid excessive pressure loss.

   h. Preferably all DCV assemblies should be installed above ground, but may be installed below ground level in a pit or chamber designed to prevent flooding. If the DCV is installed in a pit the following guidelines shall be followed:

a. There shall be no outlet, tee, tap, or connection of any kind to or from the supply line between the meter and the backflow prevention device.

b. The device shall be protected against freezing. Access for routine testing and maintenance shall be provided.

c. If a drain in the pit is absolutely necessary there shall be no connection between the drain and sewer or appurtenance, which permits the passage of polluted water into the pit.

i. Where possible, an approved DCV assembly shall be installed within a building on the service connection after but close to the meter. In certain cases, a backflow prevention assembly may be installed at an alternative location such as outdoors or at the suction side of a booster pump. The device shall be protected from freezing, flooding, and vandalism. Access for routine testing and maintenance shall be provided.

j. Drinking and domestic water lines, lines for safety showers, and lines for eye wash units must be taken off the upstream side of DCV assemblies for those devices installed as in-plant protection.

k. There shall be no outlet, tee, tap, or connection of any kind to or from the supply line between the meter and the backflow prevention device.

l. Provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e. the installation of thermal expansion devices and/or pressure relief valves.

I. <u>Pressure Vacuum Breaker Assembly (PVB)</u>

All PVB assemblies shall be installed in accordance with the manufacturer's specifications and the following Department requirements:

1. The critical installation level shall be no less than twelve inches (12”) above the highest point use or downstream piping for pipe applied applications and one inch (1”) for equipment mounted/deck mounted applications. They shall be used only where drainage is provided.

2. PVB assemblies must not be installed where the device is subject to corrosive fumes or dust.

3. Brass ¼” adapters shall be installed on each test cocks of the device.

4. PVB’s shall be tested annually.

J. Residential Dual Check (DC)

All Residential Dual Check assemblies shall be installed in accordance with the manufacturer’s specifications and the following Town requirements:

1. All residential buildings will be required to install a residential dual check device immediately downstream of the water meter.

2. The owner shall be made aware that the installation of a residential dual check valve results in a potential closed plumbing system within his residence. As such, provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e. the installation of thermal expansion devices and/or pressure relief valves.

3. Typically, residential dual check valves are not testable, therefore not subject to annual or semiannual testing requirements.

K. Irrigations Systems

An approved backflow assembly shall be installed on each service to premises on which there is an irrigation system.

1. An approved air gap or RPZ shall be installed where there is an actual or potential health hazard caused by the installation of facilities for injecting

under pressure fertilizers, fungicides, pesticides, soil conditioners and other noxious or objectionable substances through the irrigation system.

2. An approved air gap or DCV shall be installed where there is an actual or potential cross connection, which may adversely or unreasonably affect the aesthetic qualities of the domestic water supply.

3. A dual check assembly shall be installed on the irrigation line at the location of the separate water meter for the irrigation line at residential settings if there are none of the actual or potential hazards listed in #1 above.

4. Alternatively, a pressure vacuum breaker may be installed on the irrigation system according to the above requirements and manufactures specifications if there are none of the actual or potential hazards listed in #1 above, and if the device is not subject to backpressure from pumps or elevated piping. The owner must protect the device from freezing and maintain the device as required.

M. Strainers

The Town requires that all new and retrofit installations of reduced pressure principle devices and double check valve backflow preventers include the installation of strainers located immediately upstream of the backflow device. Installations of backflow preventers after water meters with existing strainers may not require the installation of another strainer. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may “stir up” debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

N. Fire Protection Systems

Devices and valves installed on fire protection systems including dual check backflow preventers for residential fire sprinkler systems shall be listed by Underwriters Laboratory (UL), unless otherwise approved by the head of the local fire department.

All new or modified fire systems with or without a Siamese connection, shall have installed as a minimum, an approved DCV. Based upon the degree of hazard, an RPZ may be required. The DCV or RPZ shall be installed on the line leading into the fire system.

An RPZ is required on all new or modified fire sprinkler system with or without a Siamese connection if chemicals are added to the fire sprinkler system. The RPZ shall be installed on the line leading into the fire system.

O. Pit Installations

Primarily due to considerations for access, safety, and gravity drainage, no devices shall be installed in pits except as specifically approved by the Town in cases of unique circumstances.

Where pit installations are proposed, however, they shall be designed with the following standards:

1. Pits or vaults shall be watertight, flood free, and maintained free from standing water by means of either a sump and pump or suitable drain. Such a pump or drain shall not connect to a sanitary sewer, nor permit flooding of the pit or vault by reverse flow from its point of discharge.

2. Drainage capacity shall be sized to accommodate both intermittent and catastrophic failure of the relief valve. All drainage from RPZ's must be gravity drains.
3. Sump pumps are not allowed unless they are sized to accommodate the maximum discharge rate and connected to emergency power supplies.

4. The pit opening and manhole cover must be at least 36" in diameter.

5. The foothold inserts must be a maximum 12" apart, and must be installed so that the top foothold is within 12" of the manhole cover and the bottom foothold is within 12" of the bottom of the pit floor.

6. The pit floor shall be pitched to the drain.

7. If built in a roadway, the top of the pit must be adequately enforced.

8. Pits must have crane access for installing and removing large assemblies, if required.

9. Pits must have adequate ground cover to prevent freezing.

10. Surface grading must divert runoff away from the entranceway.

P. Protective Enclosures

1. Floor elevation must be at least six inches (6”) above finish grade.

2. Must provide adequate clearances around the device to access test cocks, shut off valves, check valves and relief valve.

3. Require electric heaters or heat trace wire for any water service used year round.

4. Require provisions for natural or artificial light.

5. Require full gravity drains according to the drainage requirements.

6. Require security measures such as locking doors and panels, flow alarms or flow indicator lights, power indicator lights, etc.

Q. Facilities and Equipment Requiring Backflow Prevention Assemblies

The following is a list of the types of facilities, which are considered as possible cross connection hazards, and the required backflow device assembly for each:

AG = Approved Air Gap

RPZ = Reduced Pressure Principal Backflow Preventers

DCV = Double Check Valve Assembly

PVB = Pressure Vacuum Breaker Assembly

Type of Device to be Used	AG	RPZ	DCV	PVB
A. Medical Facilities				
1. Hospitals		X	X	
2. Clinics		X	X	
3. Laboratories		X	X	
4. Veterinary Hospitals/Clinics		X	X	
5. Nursing and Convalescent Homes			X	X
6. Physical Therapy Clinics			X	X
7. Morgues			X	X
8. Mortuaries		X	X	
9. Autopsy Facilities			X	X
10. Embalmers		X	X	
11. Dental Offices		X	X	
12. Medical offices with radiographic, physical therapy, and/or lab facilities		X	X	
B. Treatment Plants				
1. Sewerage		X	X	
2. Waste Water		X	X	
3. Industrial Waste			X	X
4. Pumping Stations			X	X
C. Commercial Manufacturing/Storage				
1. Automotive Plants		X	X	
2. Aircraft/Missile Plants				X
X				
3. Beverage Bottling Plants		X	X	
4. Breweries/Distilleries	X	X		
5. Chemical Plants		X	X	
6. Car Wash Facilities	X	X		
7. Dairies and Cold Storage Plants		X	X	X
8. Dye Works	X	X		
9. Irrigation Systems	X	X	X	X
10. Laundries	X	X	X	
11. Meat Packing Plants	X	X		
12. Metals manufacturing Plants	X	X		
13. Paper/Paper Product Plants	X	X		
14. Petroleum or Gas Processing Plants		X	X	
15. Photographic Film Processing Plants	X	X		
16. Plating Plants	X	X		
17. Power Plants	X	X		
18. Radioactive Handling Plants	X	X		
19. Rubber Plants	X	X		
20. Sand, Gravel, Concrete, or Asphalt Plants		X	X	
21. Swimming Pools		X	X	X

	AG	RPZ	DCV	PVB
22. Technical Schools, Colleges, Universities		X	X	X
23. Solar Energy/Heating Systems			X	X
24. Temporary Services using Hydrants		X	X	X
25. Waterfront Facilities	X	X		
26. Where a Cross Connection is Maintained		X	X	
27. Food Processing		X	X	
D. Buildings				
1. With Sewerage Ejectors		X	X	
2. With Water Booster pump and/or Storage Tank	X	X		
3. Supermarkets	X	X	X	
4. Restaurants	X	X	X	
5. Schools, Research Facilities, Any Building With Laboratories		X	X	
6. Buildings with Fire Service		X	X	X
7. Warehouses used for Hazardous Material Storage		X	X	
8. Factories	X	X	X	
9. Shopping Malls		X	X	X
10. Multi Family	X	X	X	
11. Multi Story	X	X	X	
E. Miscellaneous Equipment and Facilities				
1. Domestic Water Booster Pumps		X	X	
2. Food and Drug Processing		X	X	X
3. Hydraulic Equipment	X	X		
4. Sinks with Hose Threads	X	X		X
5. Submerged Inlets		X	X	
6. Valved Outlets or Fixtures With Hose Attachments	X	X	X	X
7. High and Low Pressure Boilers		X	X	
8. Reservoirs- Cooling Tower Recirculating Systems		X	X	X
9. Premises Where inspection Is Prohibited		X	X	
10. Commercial Dishwashers		X	X	X
11. Soap Injector		X	X	
13. Steam Generating Plant		X	X	

14.	Tank Truck- Lawn Care, Sweeper	X	X	X
15.	Water Cooled Equipment	X	X	
16.	Boilers		X	
17.	Heat Exchangers with added chemicals		X	
18.	Solar heating systems with added chemicals			

X

Fire Protection Systems

1. **Class 1**

Direct connection from public water system mains only; no pumps, tanks, or reservoirs, no physical connection from any other water supplies, no antifreeze or other additives of any kind; all sprinkler drains discharge to atmosphere, dry wells, or other safe outlets. The system may or may not have fire department connections.

A backflow prevention assembly does not have to be installed on existing systems installed prior to April 1, 2003, provided that the fire protection system is registered with the Department, equipped with a UL listed alarm check valve that is maintained in accordance with NFPA 25 and has not undergone substantial modification. Alarm check maintenance records must be available for inspection by the Department. All new or modified fire systems shall have installed as a minimum, an approved DCV. Based upon the degree of hazard, an RPZ may be required. The DCV or RPZ shall be installed in the line leading into the fire system.

2. **Class 2**

Same as Class 1 except the booster pumps may be installed in the connections from the street mains. These systems may or may not have fire department connections.

A backflow prevention assembly does not have to be installed on existing systems installed prior to April 1, 2003, provided that the fire protection system is registered with the Department, equipped with a UL listed alarm check valve that is maintained in accordance with NFPA 25 and has not undergone substantial modification. Alarm check maintenance records must be available for inspection by the Department. All new or modified fire systems shall have installed as a minimum, an approved DCV. Based upon the degree of hazard, an RPZ may be required. The DCV or RPZ shall be installed in the line leading into the fire system.

3. **Class 3**

Direct connection from public water mains plus one or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and pressure tanks.	RPZ or DCV contingent on evaluation of auxiliary supply and on-site system.

4. **Class 4**

Directly supplied from public water system mains, similar to Class 1 and 2 with an auxiliary water supply dedicated to fire department use and available to the premises, such as a non-potable water source located within 1,700 feet of the fire department connection.	RPZ on evaluation of auxiliary supply and on-site system.

5. **Class 5**

Directly supplied from public water system mains, and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers or ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.	RPZ or air gap contingent on evaluation of auxiliary supply and on site system.

6. **Class 6**

Combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.	RPZ contingent upon evaluation of site water system.

7. **Class 7**

Residential fire protection systems for one and two family detached dwellings and manufactured homes only.	Non-testable and flow through systems should be used whenever possible. Dual check valves are authorized when only food grade antifreeze is used with no additional additives. If non-grade antifreeze is utilized, the system may be classified as a Class 5.

20. OTHER PENALTIES

In addition to any enhanced billing authorized herein, the Selectboard may, by ordinance, provide additional penalties for violation of any of the provisions of these Regulations.

21. SEVERABILITY

The declaration of invalidity of any section, term or provision of these regulations shall not affect any other section, term or provision.

CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS

The attached standards shall generally be applied to work associated with the Town water works unless otherwise waived by the Commission. Variations or deviation from these standards may be allowed following review by a qualified engineer, selected and retained by the Town, for the specific application. However, it is the Town's intention, to the extent practical, to establish the standard of materials and workmanship provided in these Standards.

INDEX OF SPECIFICATIONS

NUMBER	TITLE
02232	Protection and Repair of Property
02300	Earthwork
02301	Rock Removal
02510	Contaminated Earthwork
02511	Bituminous Concrete Pavement
02930	Lawns and Grasses
03301	Curb and Sidewalk
15123	Water Meters and Appurtenances

INDEX OF STANDARD DETAILS

Drawing No. 1 - Standard Water System Construction Details

Part IV

Town Policies

§52

Assessing Services Oversight Policy

Town of Berlin, Vermont

Purpose:

To facilitate the Select Board's responsibility to provide oversight and direction to the Assessors.

Procedure:

§52-1

a. Assessor will provide to Town Officials as listed below in accordance with the following schedule.

1. To Town Treasurer, any change in value greater than $250,000 either increased or decreased value.
2. To Selectboard, any change in value greater than $500,000 either increased or decreased value.
3. Assessors will have a second review from personnel in their company for any change in excess of $1,000,000 either increased or decreased value.

b. Quarterly Review of Assessment Changes

1. The assessor will provide the Selectboard a report at the end of each quarter that includes a listing of all changes to the grand list. The report will include: the date, the parcel number, the property's street address, the owner's name, the former value, the updated value and the reason for the assessment change.

This report will be provided to the Board in July, October, January and April. Reports are to be available for the Board's review by the second Selectboard meeting of the month, with the exception of the July report which is due the first Selectboard meeting due to timing for setting the tax rate.

The foregoing policy is hereby adopted by the Selectboard of the Town of Berlin on this 15th day of January, 2018

Ture Nelson	Brad Towne
Jeremy Hansen	Pete Kelley
Wayne Lamberton	

Selectboard of Berlin
Signed copy of this policy is on file with the Berlin Town Clerk

§53
BYLAWS OF THE CAPITAL BUDGET AND PROGRAM

§53-1
PURPOSE

The capital budget and program is a planning tool to track and make appropriate decisions on capital projects, with full knowledge of anticipated capital expenditures, financing and tax requirements for the next five years or more for each department of the Town. It is one tool the Selectboard may use to make decision on the expenditures of Town funds. The Capital Budget and Program (CBP) guides the Selectboard in the expenditure of public funds and the decision to warn articles relating to capital expenditures for voter approval.

§53-2
COMPLIANCE

No public funds should be expended for capital projects until the Selectboard makes a finding that expenditure is consistent with the CBP. This finding shall follow all required stages of notice, review and approval described below.

§53-3
DEFINITION OF "CAPITAL PROJECTS"

"Capital Projects" includes the following:

a. Any project requiring debt obligation or borrowing with an expected cost of $25,000.00 or more.
b. Any new acquisitions or lease of land
c. Purchasing of new major equipment and vehicles with a life expectancy of five years or more.[1]
d. Construction of new building or rehabilitation of existing facilities, including engineering, design and other pre-construction costs
e. A project, that does not recur annually and results in a fixed asset

§53-4
EVALUATION TOOLS

The project contained in each Capital Budget and Program will be evaluated by the Planning Commission and the Selectboard and assigned a series of priority rankings. One metric involves the assignment of a letter grade of A to D. A second involves a series of rankings and assignments of numbers based on national levels of service, useful to measure how Berlin's

[1] This policy does not apply to replacement items such as vehicles to replace current vehicles or equipment to replace the same current equipment.

capital assets compare with other communities. The third is found on the Capital Project Request Form, and requires the Department Head to assign appoints to projects on criteria including replacement, upgrades and expansions, to help with multiple capital projects are competing with each other. The A-D standard follow:

a. A project currently underway for which the Town is fully committed and/or so urgently needed that implementation cannot be delayed. Only essential projects shall be so classified.
b. A project needed to maintain the department/program/activity at current level of performance.
c. A project needed as soon as funds can reasonable be made available or which is desirable but needing further study.
d. A project needed but safely deferred beyond the third year of the five-year projections.

In this measure, projects are assigned a letter grade by the Department Head, a proposal that is reviewed and may be altered by the Planning Commission and/or the Selectboard. The second and third standards are found on the Capital Request Form. As with the first, they require the Department Head to describe and rank the project, so that each project shall be reviewed only after full consideration is given to it need, cost, and utility.

§53-5
REVIEW OF CAPITAL PROJECT

Department heads, with the advice and assistance of the Town Administrator, shall complete a Capital Budget request Form and submit it to the Capital Budget Committee (CBC). The CBS shall review the program for completeness and form and product a report, indicating how the proposal would affect the present Capital Budget. That report is then submitted to the Planning Commission, with shall produce its own report, recommending whether to invest in the proposed Capital Project or not, and explaining its reasons for the recommendation. The Request Form, with the report of the CBSC and the Planning Commission shall then be submitted to the Selectboard, the body that make the decision on the proposed project. The Town Treasurer shall verify the information supplied on the form and the impact on the capital Budget, as indicated by the CBC.

§53-6
PROCEDURE FOR ADOPTION OF CAPITAL BUDGET AND PROGRAM

No project, as noted above, shall be approved unless the Selectboard determines that it is consistent with the Capital Budget and Program (CBP) The CBP is the guide for expenditures on capital projects. The Capital Budget Committee designed these bylaws and initial CBP. Thereafter, the Planning Commission will be responsible for the various amendments and design of the CBP. The adoption process for the CBP follows:

a. The Planning Commission holds a public hearing, on the CBP. The notice for this hearing shall include copies of these bylaws, the CBP and information about the hearing. Copies of the proposed CBP are available without charge to anyone.

b. Following the hearing, the Planning Commission shall make alterations to the CBP, and forward it to the Selectboard, with comments and recommendations.
c. The Selectboard shall hold a public hearing of its own to discuss the CBP. The Selectboard will review the budget and program and make necessary revisions.
d. The initial CBP shall be warned and presented to the voters at the annual town meeting, for approval of the process described in these bylaws. Following that initial approval, the Selectboard shall be responsible for making all changes to the DBP. Voters' authority over specific capital project is exercised through the town budget at Town Meeting.
e. Each year the CBP is revised to show current expenditures and debt and reflect new capital investments, through the same process used to adopt the initial DBP, projecting the future obligations of the Town for repayment of each capital project.

§53-7
ROLE OF TOWN TREASURER

The Town Treasurer shall keep regular accounts of the Capital Budget, making appropriate adjustments as projects are approved and completed, new projects are added to the budget, or old project abandoned.

§53-8
REVIEWS AND REPORT

The Selectboard shall review the current status of the CBP before each annual budget preparation, and shall make report of the current condition of the CBP in the annual report.

§53-9
EMERGENCIES

The CBP CANNOT INTERFERE WITH THE IMMEDIATE NEEDS OF THE Town. The Selectboard must act without having to consider the Budget in such times. Consequently, this budget and program recognizes there will be time when the CBP is not followed or considered. Emergencies would be unforeseen e3xpense3s deemed necessary that qualify as Capital Project items.

§53-10
VOTER PETITION

Voters in Berlin may petition the Selectboard for vote on any decision to purchase a Capital Asset within 30 days of the decision and require the Selectboard to warn a public hearing on the questions.

Signed copy of the policy is on file with the Berlin Town Clerk.

§54

Town of Berlin
Conflict of Interest Policy

§54-1 Authority.

Under the authority granted in 24 V.S.A. § 2291(20), the Berlin Selectboard hereby adopts the following policy concerning conflicts of interest.

§54-2 Purpose:

The purpose of this policy is to ensure the business of this municipality will conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officers are based on the best interest of the municipality.

§54-3 Conflict of Elected and Appointed Officials

A Town Officer who is disqualified by virtue of a conflict of interest shall not vote upon, participate in the discussion of, or otherwise sit as a member of any board, commission or committee upon the matter from which he/she is disqualified. He/she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding.

§54-4 Appointment of Alternate Officers

The Selectboard may appoint an alternate Town Officer to serve in place of an officer who has recused himself/herself or has been disqualified.

<u>Specific Conflicts</u>

1. The Town Officer or a near relative or business associate has a property or financial interest which might be substantially affected, favorable or adversely, by the decision of the board, commission, of which the Town Officer is a member;

2. The Town Officer has a personal bias or prejudice toward any party; or

3. The Town Officer has previously expressed an opinion as to the proper disposition of a specific case or controversy involving the exercise of his or her discretion while acting in a quasi-judicial capacity, such as serving on the Development Review Board on permits and appeals or as a member of the Selectboard acting to lay out, alter, reclassify of discontinued Town highways.

§54-5 Specific Prohibition

A Town officer who is disqualified by virtue of a conflict of interest shall not vote upon or participate in the discussion of, or otherwise sit as a member of any boards, commission, or committee upon the matter from which he/she is disqualified. He/she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding.

§54-6 Announcing a Conflict

A Town officer who is disqualified by virtue of a conflict of interest shall not vote upon participate in the discussion of, or otherwise sit as a member of any board, commission, or committee upon the matter from which he/she is disqualified. He/she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding. If a Town officer recognizes that he/she might have a conflict of interest, or if another person raises an objection to the participation of any Town Officer, he/she shall state the nature of the conflict as soon as may be possible and the Town officer shall thereupon disqualify himself/herself from further participation if there is a conflict of interest.

§54-7 Determination of Conflict by other than the Town Officer

If a question of a member's disqualification as discussed within the section is brought to the attention of any board, commission, or committee by any party or person or by another board, commission, or committee member, and the member does not disqualify himself/herself, the board, commission, or committee shall consider the factual basis for the question and shall decide the matter by majority vote, the challenged member abstaining before any other business is conducted. A formal vote shall be taken on every question of a conflict. Once the vote is taken, the board, commission and committee shall return to the business before it, and no further time shall be made in the minutes of the meeting.

§54-8 Effective Date

This policy shall become effective immediately upon its adoption by the Selectboard.

_____	_____
Brad Towne	Florence Smith
_____	_____
Jeremy Hansen	Justin Lawrence
_____	
Angelina Capron	

Selectboard of Berlin
Dated this 4th day of April, 2019

A signed copy of this policy is on file in the Town Clerk's Office

§55

Town Credit/Charge Card Policy

Purpose:

The Town recognizes the need to obtain essential goods and services than may not be available without a payment mechanism such as a Town credit card, or store charge cards. This policy is to outline the procedure for use to avoid misuse or fraudulent activity. This policy addresses the Town's general credit card in Part I and store charge cards in Part II.

§55-1:

Card Holders and Limits:

The Town will have one credit card that will be kept in the Town's vault for safekeeping while not being used. The credit limit on the card is $2,500. There will not be a credit card issued in the name of any employee. Any charges on the card will only be authorized by the Selectboard or the Town Administrator. The Town Treasurer will be responsible to generate the actual transaction. Purchases that are not authorized by the Town Administrator or by vote of the Selectboard are not allowed.

Credit Card Use:

The Town credit card is only to be used to conduct Town business for the purchase of goods and services, where purchasing on line or by the credit card is necessary or in the best interest of the Town. Credit card numbers must never be sent via email. It cannot be used for personal purchases or cash advances. Employees who make unauthorized purchases or advances will be liable for the amount of such purchases or advances, administrative fee assessed by the credit card company (bank) in connection with the misuse. The employee may also be subject to disciplinary action for misuse of the Town credit card as per procedures outlined in the Town's personnel policy. This may include immediate termination if warranted.

Security:

If the Town Credit card is lost, the user must immediately inform the Town Administrator who will in turn notify the Selectboard and the credit card company or bank in this event.

Documentation:

Proper documentation will be provided to the Treasurer that details goods or services purchased, the cost and the purpose. For over-the-counter purchases, documentation will include the invoice and customer copy of the charge receipt. For purchases made on the internet the documentation will include a copy of the receipt and order confirmation page. Purchases over the telephone to include an email or faxed receipt from the vendor.

§55-2

Store Charge Cards:

The Town will use store charge cards for vendors who do not offer "open" accounts. Cards shall be kept in a secure location to protect against loss or theft. Cards shall only be out of the secured location when it is necessary for a purchase. Use of store credit cards shall not be used without the authorization of the department head. The Town Treasurer will not issue payment for purchases that have not been authorized by the Town Administrator or by vote of the Selectboard.

Store Charge Use:

The card is only to be used to conduct Town business for the purchase of goods and services that are required by the Town. It cannot be used for personal purchases. Employees who make unauthorized purchases will be liable for the amount of such purchases, administrative fee if applicable in connection with the misuse. The employee may also be subject to disciplinary action for misuse of the Town credit card as per procedures outlined in the Town's personnel policy. This may include immediate termination if warranted.

This policy adopted this 17th day of February, 2016

Ture Nelson	Brad Towne
Jeremy Hansen	Pete Kelley
Roberta Haskin	

Signed copy of the policy is on file with the Berlin Town Clerk.

§ 57
TOWN OF BERLIN
DELINQUENT TAX COLLECTION POLICY

The purpose of this policy is to establish clear guidelines so that all delinquent taxpayers will be treated fairly and will know what to expect.
Delinquent taxes represent a superior lien upon your property and remain in effect until the delinquent tax, penalty and interest are paid in full.

Notices: The *initial notice* to taxpayers who are delinquent in paying their taxes will be mailed by the Collector of Delinquent Taxes within Ten days after the Due Date of Unpaid Taxes . This initial notice will include delinquent tax, assessed penalty and accrued interest. Statements will be sent each month until taxes are paid in full.

Penalty: A penalty of eight percent (8%) will be assessed on each late installment, as voted at the Annual Town Meeting.

Interest: On or about the sixteenth (16th) day of each month or any part of a month, interest will be assessed at the rate of one percent (1%) on all delinquent taxes.

Payment Arrangements and Partial Payments: Partial payments will be accepted only if the taxpayer has submitted a payment agreement in writing and the agreement is dated and signed by each taxpayer, and is received and accepted by the Collector of Delinquent Taxes.

Each taxpayer will receive a receipt for every payment upon request. If a payment is returned to the Collector of Delinquent Taxes due to insufficient funds, the taxpayer will be charged the cost of the return and may lose their privilege to submit payment by personal check. Postdated checks will not be accepted.

Allocation of Partial Payments: Each partial payment will be applied first to the outstanding accrued interest. The remainder of the partial payment will be proportionately applied to the tax and penalty or pursuant to V.S.A. 32 §4647.

Taxes less than $2,500: If the amount is less than $2,500 and no satisfactory payment arrangements have been made within one month of demand, or if the prior payment agreement has not been met, the tax collector may file a complaint with Small Claims.

Further Tax Collection: If satisfactory payment arrangements have not been made in one month, or if the prior agreement has not been met, the Tax Collector may begin the following actions to conduct a tax sale of the property or as much of the property as is necessary to pay the tax, plus costs and fees:

1. The collector will notify the taxpayer and mortgage and lien holders of the tax sale decision, the date by which full payment must be received, and the costs to expect once the sale process begins.
2. If the deadline date has passed and full payment has not been received, the Collector will proceed with a tax sale according to the procedures specified in 32 V.S.A. § 5252.
3. Costs of preparing and conducting the sale, including legal fees up to a maximum of 15% of the amount of the delinquent tax, will be charged to the delinquent taxpayer.

In the event that no one purchases the property at tax sale, or, if in the judgment of the Collector of Delinquent Taxes, proceeding with the tax sale is inadvisable, the tax collector shall collect the delinquent taxes by use of any and all means permitted by law.

If no satisfactory payment arrangements have been made in one month or the prior payment agreement has not been met, the Collector of Delinquent Taxes may alternatively file a complaint with the Washington County Small Claims Court or Washington Superior Court.

Abatement of Taxes: Each taxpayer has a right to apply for abatement of property taxes based on any of the grounds listed in 24 V.S.A. §1535.

Policy Adopted on October 17, 2016
Signed copy of the policy is on file with the Berlin Town Clerk.

§59

Drug & Alcohol Policy for CMV Operators

Introduction

This policy applies to employees and prospective employees of the Town of Berlin who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV.

All other municipal employees are subject to the provisions of the municipality's personnel policy regarding alcohol and drug use and testing, if applicable.

The policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

This personnel policy does not constitute a contract of employment. Employment with Town of Berlin is ***at will*** and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

§59-1: Applicability

This policy applies to all Town of Berlin employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the town's personnel policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators.

For purposes of this policy,

Commercial motor vehicle or CMV means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or

- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Individuals operating the above vehicles must have a valid commercial driver's license (CDL).

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files as part of the driver qualification file. An acknowledgement form is included as Appendix C.

Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are subject to this policy at all times while they are actively working and-during periods when they may be called into work (e.g. to respond to weather-related incidents, respond to emergency situations, etc.). Safety-sensitive functions and other terms are defined in Appendix A: Definitions.

As per Town of Berlin Personnel Policy Section 306.5, Employees who are on an "On Call" status will be responsible to ensure that they will be in compliance with the elements of the Drug and Alcohol policy.

§59-2: Responsibility for Employee Information

The Town of Berlin has assigned the Town Administrator as the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. Employees may also obtain information about applicable Federal regulations from 49 CFR. Sources of information are provided in Appendix B of this policy.

§59-3: Prohibited Conduct

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that he/she is called to report for duty.

- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.
- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).
- Reporting to work or remaining on duty requiring the performance of safety sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting-to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

§59-4: "Testing Refusal" Defined

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when s/he does any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;

- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

§59-5: Testing

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

§59-5a: The Drug Testing Process

The drug testing process will screen for drugs including marijuana, cocaine, opiates, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection procedure. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

If a pre-employment drug test produces a result of negative dilute the employee will be required to submit to another specimen collection. Should the second test results be the same as the first the Town will accept that result as test of record. A second test will not be performed as a result of a negative dilute during a random test. Under federal law, an applicant/employee's refusal to submit to a recollection for a negative-dilute result is a refusal to test.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test

and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result. The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Town of Berlin Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.

- The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

§59-5b: Observed Collections

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

§59-5c: The Alcohol Testing Process

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in

§59-6: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not to provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours.

Subsequent to the required 24-hour removal, the employee will:

- Meet with the Town Administrator to review the need to avoid alcohol use from any source during or proceeding work hours.
- If the employee has an alcohol test result of 0.02% to ≤ 0.039% two or more times within a six month period, the employee will again meet with a municipal representative from the list above to review the need to avoid alcohol use. The employee will be provided with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.

An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a cancelled test.

§59-5d: Pre-employment Testing

When an individual applies to work for the town in a position that involves the operation of a CMV, or when a municipal employee is under consideration for a position that involves the operation of a CMV, that person will be required to undergo pre-employment urine **drug** testing. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed **prior** to the individual working in the new position.

Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably feasible to coordinate and complete the test.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety sensitive duties, the municipality must receive evidence from a substance abuse professional that meets with the requirements 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required.

Any applicant who fails a pre-employment drug test will be provided the results of the test along with the current Invest EAP brochure. This serves to provide the individual with information about substance abuse treatment opportunities.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the municipal personnel policies.

That employee will also be eliminated from consideration for the position which triggered the need for the pre-employment test.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or performs safety sensitive duties.

§59-5e: Random Testing

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third party administrator, Occupational Drug Testing, LLC (ODT). These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees.

The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations.

Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they notified that they have been selected for testing.

§59-5f: Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

The Town of Berlin shall be responsible for transporting the employee who will be tested to a suitable testing site identified by ODT. Transport shall include travel to and from the location

and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish his or her shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be prepared prior to the release of the test results. This written record shall be submitted to the Town Administrator.

§59-5g: Post Accident Testing

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by employer?
Human fatality	YES	**YES**
Human fatality	NO	**YES**
Bodily injury with immediate medical treatment away from the scene.	YES	**YES**
Bodily injury with immediate medical treatment away from the scene.	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	**YES**
Disabling damage to any motor vehicle requiring tow away.	NO	NO

If an alcohol test required by this section is not administered within two hours following the accident, the municipality will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test.

If a drug test required by this section is not administered within 32 hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required timeframe.

§59-6: Consequences of a Positive Test

The medical review officer will report positive test results to the DER only after the verifying the test results as outlined in 49 CFR, Part 40 as amended. When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-

sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

On the day that the positive test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay. The employee's length of suspension will run the period of time in which it takes the individual to satisfactorily complete the treatment (as confirmed by the treating SAP), and last for up to 3 months from the date the positive test result was received. After that period, if the employee has not successfully completed treatment, the employee may be terminated.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties.

An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3 month suspension period must fulfill all return to duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

An employee who has a second positive test after completing return to duty testing may be terminated.

Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

§59-7: Return to Duty Testing

Covered employees having a positive test will not be permitted to return to duty (to safety sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The SAP will provide written documentation that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing MUST be performed under direct observation.

§59-8: Follow-Up Testing

After satisfactory completion of return to duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months after resuming safety sensitive duties. Follow-up testing may be required for up to 60 months unless the substance abuse professional determines

that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions. Follow-up testing MUST be performed under direct observation.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

§59-9: Employee Information

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

http://www.higheredcenter.org/resources/national-clearinghouse-alcohol-and-drug-information-ncadi

http://www.samhsa.gov/;

http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm

http://www.investeap.org/

http://www.dot.gov/odapc/employee-handbook-english

APPENDIX A: Definitions

Accident means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, ***disabling damage*** means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
    - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
    - tire disablement without other damage even if no spare tire is available, or
    - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce, to transport passengers, or property if the motor vehicle:

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant bio-medical information.

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

Negative Dilute is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

Non-negative test result is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

Observed Collection means the donor will provide his or her sample under the direct observation of either a collector or another individual of the same gender. The donor must raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that he/she does not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return his/her clothing to its proper position for observed urination.

Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

Primary specimen. In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Safety-sensitive function includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Shy Bladder refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three hour time period.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

V*alidity testing* is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

APPENDIX B: Contacts & Information

OCCUPATIONAL DRUG TESTING, LLC
Manchester, NH
800-211-4469
VLCT/PACIF

Risk Management Services
89 Main St. Montpelier, Vermont 05602
802-229-9111

INVEST EAP
108 Cherry Street, Suite 203
Burlington, Vermont 05401
MAIN OFFICE: 888.392.0050
FAX: 802.863-7515
staff@investeap.org

Employee Access to Information

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at http://www.dot.gov/ost/dapc, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

APPENDIX C: CMV Drug & Alcohol Testing Policy-Acknowledgement Form

Town of Berlin

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CMV Drug & Alcohol Testing Policy.** I understand that I must abide by its terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: _____

Signature of Employee/Applicant: _____

_____

Employee/Applicant CDL ID #

Date: _____

Witness Signature: _____

Date: _____

Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File. Check here ☐ to confirm copy given to employee/applicant.

APPENDIX D: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA[1]	15 ng/mL.
Cocaine metabolites	150 ng/mL	Benzoylecgonine	100 ng/mL.
Opiate metabolites			
Codeine/Morphine[2]	2000 ng/mL	Codeine	2000 ng/mL.
		Morphine	2000 ng/mL.
6–Acetylmorphine	10 ng/mL	6–Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamines[3]			
AMP/MAMP[4]	500 ng/mL	Amphetamine	250 ng/mL.
		Methamphetamine[5]	250 ng/mL.
MDMA[6]	500 ng/mL	MDMA	250 ng/mL.
		MDA[7]	250 ng/mL.
		MDEA[8]	250 ng/mL

[1]Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

[2]Morphine is the target analyte for codeine/morphine testing.

[3]Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

[4]Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

[5]To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

[6]Methylenedioxymethamphetamine (MDMA).

[7]Methylenedioxyamphetamine (MDA).

[8]Methylenedioxyethylamphetamine (MDEA).

Note: These cutoff limits may be subject to periodic revision by DOT.

Adopted by Selectboard on 08/15/2016

§60

Fund Balance Policy

Town of Berlin

The fund balance policy is intended to provide guidelines during the preparation and execution of the annual budget to ensure that sufficient reserves are maintained for unanticipated expenditures or revenue shortfalls. It is also intended to preserve flexibility throughout the fiscal year to make adjustments in funding for programs approved in connection with the annual budget. The Fund balance policy should be established based upon a long-term perspective recognizing that stated thresholds are considered minimum balances. The main objective of establishing and maintaining a Fund Balance Policy is for the Town of Berlin to be in a strong fiscal position that will allow the Town ability to address negative economic trends.

The Fund Balance consists of five categories: Nonspendable, Restricted, Committed, Assigned and Unassigned.

- **Nonspendable Fund Balance** consists of funds that cannot be spent due to their form. (Inventories or Prepaid Items) or funds that legally or contractually must be maintained intact.
- **Restricted Fund Balance** consists of funds that are mandated for a specific purpose by external parties, constitutional provision, or enabling legislation. In accordance with 32 V.S.A.§4041 (a)
- **Committed Fund Balance** consists of funds that are set aside for a specific purpose by the Town of Berlin legal voters. Additional funds may be approved by the voters each year in the annual town budget. Formal action must be taken to remove or change the limitations placed on the funds. In accordance with 24 V.S.A.§2804(a)
- **Assigned Fund Balance** consists of other non tax funds that are set aside with the intent to be used for a specific purpose by the Town of Berlin Selectboard. Assigned funds cannot cause a deficit in unassigned fund balance.
- **Unassigned Fund Balance** consists of excess funds that have not been classified in the previous four categories. All funds in this category are considered spendable resources. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls.

Order of Use of Funds

When both restricted and unrestricted funds are available for expenditure, restricted funds should be spent first unless legal requirement disallow it.

When committed, assigned and unassigned funds are available for expenditure, committed funds should be spent first, assigned funds second, and unassigned funds last.

Assigned funds may be held in one or more accounts and intermingled as long as separate accounting is kept of income and expenses of each fund.

Authority to Assign Funds

Upon passage of the Fund Balance Policy, authority is given to the Berlin Selectboard to assign funds for specific purposes. The Selectboard has the authority to remove or change the assignment of the funds with a simple majority vote.

The Fund Balance Policy may be amended by the Selectboard as desired or needed as long as it is in accordance with state statutes.

The foregoing Policy is hereby adopted this 22nd day of February,2017

Ture Nelson	Brad Towne
Jeremy Hansen	Wayne Lamberton
Pete Kelley	

Selectboard of Berlin

Signed copy of the policy is on file with the Berlin Town Clerk.

§61

Investment Policy

Town of Berlin, Vermont

§61-1

Purpose:

In accordance with 24 V.S.A. §1571(b), moneys received by the Treasurer on behalf of the Town of Berlin may be invested and reinvested by the Treasurer with the approval of the Selectboard. The purpose of the investment policy is to establish investment objectives.

§61-2

Objectives:

The primary objectives in priority order of investment of the fund of the Town of Berlin shall be safety, liquidity, yield and local investment.

Safety of the principal shall be the foremost objective of Town funds. Investments will be undertaken so as to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk.

The Town's Investment portfolio will remain sufficiently liquid to meet all reasonably anticipated operating requirements. This will be accomplished by structuring the portfolio so that investments mature concurrent with cash flow needs to meet anticipated demands.

The investment portfolio will be designed to attain a market rate of return throughout budget and economic cycle, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity, and yield objectives described above.

Except where prohibited by law, cash and reserve balances from all funds will be consolidated to maximize investments earnings and to increase efficiencies with regard to investment pricing, safekeeping, and administration. Investment income will be allocated to various funds based on their respective participation and in accordance with generally accepted accounting principles.

The Selectboard and Treasurer shall refrain from personal business activity that could conflict with the proper execution and management of the Town's investments or that could impair their ability to make impartial decisions.

Collateralization using obligations fully guaranteed by the full faith and credit of a Vermont municipality, the State of Vermont, and/or the United States Government will be required on certificates of deposit and repurchase agreements. Collateral will always be held by an independent part, in the Town's name with whom the Town has a custodial agreement. Evidence of ownership must be supplied to, and retained by the Town.

The foregoing policy is hereby adopted by the Selectboard of the Town of Berlin on this 6th day of February, 2017.

_____	_____
Ture Nelson	Brad Towne
_____	_____
Jeremy Hansen	Wayne Lamberton
_____	
Pete Kelley	

Selectboard of Berlin

Signed copy of the policy is on file with the Berlin Town Clerk.

§ 62
MAILBOX REIMBURSEMENT POLICY
TOWN OF BERLIN, VERMONT

§62-1
POLICY OBJECTIVES

The primary objective of the Town of Berlin's Mail Box Reimbursement Policy are as follows:

1. To provide for the fair and equitable reimbursement of the cost of a damaged mail box when damage is a result of direct contact from a Town Vehicle.

2. To ensure that prior to the reimbursement of a damaged mail box, the cause of the damage is established.

3. To establish a maximum replacement cost, and standards for replacement of a damaged mail box.

§62-2
MAIL BOX REIMBUSEMENT REQUEST PROCEDURES

All requests for reimbursement of a damaged mail box shall be in writing to the Town Administrator, and shall include the date, time, and location of the accident. The request shall also include the cause of damage.

Upon receipt of a written request for reimbursement, the Town Administrator or Highway Superintendent shall inspect the condition of the mail box and post, and determine the cause of the damage.

If the Town Administrator and Highway Superintendent determine that the mail box damage was a result of direct contact form a Town Vehicle, and not the result of other factors, cause as, a decayed post or the accumulation of snow, the owner of the mail box shall be entitled to a maximum reimbursement of $40.00.

§62-3
MAIL BOX STANDAREDS AND SPECIFICATIONS

All new nail boxes installed under this policy shall be an approved US Post Office mail box and installed on a 4" by 4: post. The location of the mail box shall be approved by the Highway Superintendent.

Final reimbursement of a damaged mail box shall not be made until the new mail box is installed and the location is approved by the Highway Superintendent. The owner of the mail box shall provide a receipt of the purchase of the new mail box and all materials.

§62-4
APPEAL

If the Town Administrator denies a request for reimbursement of a damaged mail box, the owner of the mail box shall have the right to appeal to the Selectboard within 30 days of the decision. The Selectboard shall review the appeal request at the next regularly scheduled Board meeting.

§62-5
INCONSISTENT POLICIES REPEALED

This Policy shall amend and replace any provisions of any Policy of the Town of Berlin in effect at the time of enactment of this Policy governing any activity included in this Policy.

§62-6
SEVERABILITY

If any section subsection, subdivision, paragraph, sentence, clause, or phrase of this Policy, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Police or any part thereof.

§62-7
EFFECT

No section of this Policy shall be construed to supersede or replace any Vermont statute. This Policy shall be entered in the Minutes of the Select board's meeting and be incorporated in the Town's Administrative Code.

The foregoing Policy is hereby adopted by the Selectboard of the Town of Berlin, Vermont, this April 21, 2008 and is effective as of this date until amended or repealed.

Policy reviewed January 16, 2017-No changes and typographical errors noted.

Signed copy of the policy is on file with the Berlin Town Clerk.

§65
PURCHASING POLICY
TOWN OF BERLIN, VERMONT

§65-1
POLICY OBJECTIVES

The primary objectives of the Town of Berlin's purchasing policy are as follows:

1. To promote and effect, in the best interests of the Town of Berlin, open and intelligent purchasing of supplies, equipment and services, which will result in the maximum value received for each tax dollar spent;
2. To promote waste reduction and recycling through purchases that take into consideration the use of recycled material in the manufacture of purchased products or equipment, the recyclability of the purchased product or equipment, and the minimization of waste to be disposed of by the Town.;
3. To assure realization of the principles of competitive purchasing and best buy at least cost;
4. To assist all departments and offices in reaching responsible, environmentally sound, and cost effective decisions in the procurement of quality supplies and services for Town use;
5. To ensure that all qualified vendors will have an equal opportunity to do business with the Town of Berlin and promote good will and clear communication in Town-vendor relations; and;
6. To be in compliance with the provisions of the Berlin Town Charter.

§65-2
DEFINITIONS

Major Purchases: those purchases calling for delivery of goods or services in the amount of $5,000.00 or more:

Regular Purchases: those purchases calling for delivery of goods or services in the amount less than $5,000.00 and greater than $1,000.00

§65-3
PROCEDURES

1. Major Purchases require a formal bid process. The Town Administrator shall act as Purchasing Agent in consultation with the Department Head for major purchases. The Selectboard approves major purchases.

   The Purchasing Agent in consultation with the Department Head shall prepare or cause to be prepared, specifications or a request for proposal for the goods or services required, and shall advertise an Invitation to Bid as widely as possible, including publication at least once in a newspaper of general circulation in Berlin.

Major Purchases shall not be separated into small elements to avoid the formal bid process. The Purchasing Agent shall rebid all recurring major purchases every three (3) years. The Invitation to Bid shall include the following:

a. The location, time and place for receiving and opening sealed bids:
b. Information on how to obtain bid specifications and bid forms, or the request for proposal;
c. A description of the goods or services for which bids are to be received;
d. The right of the Town of Berlin Selectboard to reject any or all bids of such action is deemed in the best interest of the Town;
e. An outline, where appropriate, of the insurance requirements of the Town in order to limit the Town's risk; and,
f. Such bids shall be opened publicly not less than fifteen (15) days following the date of the first advertisement, at the time and place specified in the published notice. The Selectboard shall award contracts for major purchases of goods or services.
g. A contract for supplies or services may be entered into for any period of time if deemed to be in the best interest of the Town, provided that the term of the contract and renewal provisions are included in the original solicitation process. Adequate funds must be available to fulfill the first fiscal year's obligation at the time of contract.

2. Regular Purchases are accomplished through competitive solicitation, but not necessarily through formal bid process.

   The Town Administrator and/or Department Head shall act as Purchasing Agent for a regular purchase unless otherwise restricted by State Stature. Regular purchases may be made through formal bid or written or oral quotation at the discretion of the Purchasing Agent whose department the purchase is being made unless otherwise directed by the Selectboard. Bids or quotation should be sought from at least three (3) vendors unless a sole source is approved as per Section V below. Regular purchases shall follow established procedures for requisitions, invoices, verification and payment unless otherwise stated by the Selectboard.

3. Lines of credit, leases and other financial products purchases shall require approval of the Selectboard.

4. Purchase Order System:

   The purchase order is the legal authorization for a vendor to supply goods or services to the Town of Berlin. Purchase orders allow both parties to book the transaction into their scheduling and cash projects. Purchase Orders help to eliminate misunderstandings regarding the products ordered, prices and delivery requirements.

   Authorized personnel may complete a purchase order if required by a vendor or for departmental records for products or services being provided, as well as pricing and

delivery expectations. A copy will be forwarded to the Treasurer for processing. A copy will be retained by the department placing the order.

§65-4
VENDOR SELECTION

Vendors will be selected on a competitive basis. Purchases will be awarded to the least costly, best qualified, and most responsible vendor. Any or all bids, quotations or proposals may be reject if such action is deemed to be in the best interest of the Town. In determining the "least costly, best qualified and most responsible vendor: in addition to price, the following may be considered:

1. The substantial performance of the bidder in meeting the specifications and other terms of conditions of the solicitation:
2. The ability, capacity and skill of the vendor to perform the contract or provide the goods or services required, and to do so promptly or within the time specified;
3. The character, integrity, reputation, experience, financial resources and performance of the vendor under previous contracts with the Town and elsewhere;
4. The quality, availability and adaptability of the service or goods being purchased, and the ability of the vendor to provide future maintenance if necessary.

§65-5
EXCEPTIONS

The Selectboard may waive the bid process or approve a sole source solicitation for major purchases when they deem it to be in the best interests of the Town. The Town Administrator or Department Head may do likewise for regular purchases with the approval of the Selectboard. Sole source solicitations should be reviewed to determine that the price offered is fair and reasonable or there is only one manufacturer/supplier of the goods or services to be purchased.

The Selectboard may exempt the following items from both the bid and quotation process subject to the approval.

a. Repairs on equipment
b. Utilities

Purchases made subject to existing contracts issued by the State of Vermont shall be deemed in compliance with the provisions of this policy.

§65-6
EMERGENCY CLAUSE

The provision of this policy may be waived in the event of an emergency. An emergency situation shall be defined as one, which threatens the lives or health of the people, the property of the Town, or its citizens, or delivery of necessary services to the citizens of Berlin.

During emergency situations, when normal procurement procedures would be impractical, the following procedures shall be followed:

The Selectboard shall approve all requests for emergency purchases. In the event that the Selectboard is unavailable, the Town Administrator or the appropriate department head may approve essential purchases.

The Selectboard shall be notified, within twenty-four (24) hours of the transaction of all purchases of over $5,000.00 made under this emergency clause.

§65-7
INCONSISTENT POLCIES REPEALED

This policy shall amend and replace any provisions of any Policy of the Town of Berlin in effect at the time of enactment of this Policy governing any activity included in this Policy.

§65-8
SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Policy, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Policy or any part thereof.

§65-9
EFFECT

No section of this Policy shall be construed to supersede or replace any Vermont Statute.

This Policy shall be entered in the Minutes of the Select board's meeting and be incorporated in the Town's Administrative Code.

This Policy is hereby adopted by the Selectboard of the Town of Berlin, Vermont this 16th day of June, 2014 and is effective as of this date until amended or repealed.

This Policy as updated adopted by the Selectboard of the Town of Berlin, Vermont this 15th day of May, 2017

–

_____	_____
Ture Nelson	Brad Towne
_____	_____
Jeremy Hansen	Wayne Lamberton
_____	Selectboard of Berlin
Pete Kelley	

Signed copy of the policy is on file with the Berlin Town Clerk.

§68
CLASS 4 ROAD POLICY

DEFINITIONS

CLASS 4 HIGHWAYS are all other highways not falling under definition or class 1, 2 and 3 highways.

CLASS 1, 2 AND 3 highways are defined for the purpose of receiving state aid and are passable with a pleasure vehicle on a year-round basis.

TRAIL means a public right-of-way which is not a highway and which:

(a) Previously was a designated highway having the same width as the designated town highway or a lesser width if so designated or
(b) A new public right of way laid out as a trail by the Selectboard for the purpose of providing access to abutting properties or for recreational use.

§68-2
EXISTING USE

Existing rights-of-way of class 4 highways and trails as of the date of adoption of this policy shall be retained by the Town for purposes of recreational multiuse activities, access to private property and agricultural and forest management.

§68-3
MAINTENANCE

The town shall not provide any maintenance or upkeep on trails.

The town is not obligated to but may, at its sole discretion, provide summer maintenance (gravel/grading), bridge and culvert maintenance and to control erosion on adjacent properties and to remove obstructions as necessary for the public good.

The town shall not provide any winter maintenance on class 4 Highways.

Gun Club Road-TH. #24 and for the class 4 section of Rowell Hill Road TH. #39. Will be closed from November 15th each year and will re-open in the spring at the discretion of the Selectboard. Both of these class 4 roads may receive summer time maintenance.

1) Permission for repair, maintenance improvement or restoration shall not be unreasonably withheld by the Selectboard.
2) A written maintenance request shall be made to the Selectboard prior to commencing any work.
3) The written request shall contain drawings and descriptions of work to be done.

4) The landowner shall be responsible for all costs associated with Class 4 Highway improvement.
5) No work shall commence without written permission issued by the Selectboard.
6) The road shall be left in as good or better condition as when permission is granted.
7) Upon completion of the work, the landowner shall notify the town highway Superintendent who shall inspect the project and issue a report to the Selectboard on the acceptability of the work.
8) Any winter plowing on a class 4 or trails by private parties shall be only with permission from the Selectboard.

§68-4
CONTROL

The Selectboard shall exercise control of class 4 highways and trails to ensure their integrity as a public right-of way by means which may include but are not limited to, the following:

A. Establishment of vehicle weight limits.
B. Prohibition or restriction of wheeled vehicle use during mud and snow season, signs and barriers may be utilized to accomplish their purpose;
C. Requirements for temporary permit for heavy equipment access may be imposed and the stipulation included that any highway damage will be repaired by or at the expense of the users; posting a bond or other security to guarantee that repairs are made may be required as a condition of any permits;
D. Speed limits may be established.
E. The use of motorized vehicles on legal town trails may be prohibited, limited or permitted.

§68-5
CHANGE IN CLASSIFICATION

Class 4 Highways may be reclassified to trail status, discontinued, or upgraded to class 3 or higher status. Trails may be discontinued or upgraded to class 4 or higher status.

Reclassification will be done in accordance with 19 VSA §788-716 and upon findings by the Selectboard that the public interests will be substantially advanced by such change in status and that reasonable measures are taken to replace, substitute, or avoid the loss of public and commercial travel, intrinsic aesthetic and recreational value, or other public interests afforded by the existing class 4 Highway or trail.

At a minimum, no class 4 highway or trail may be upgraded in status or discontinued without the permission of the Selectboard. Selectboard may provide for an alternative travel easement or right-of way replacing the travel route upgraded or discontinued to insure that users and landowners have uninterrupted access.

The Selectboard will seek the advice of the Planning Commission and Conservation commission on determine which class 4 Town Highways shall be reclassified as Trails or which class 4 town highways and trails should be discontinued.

§68-6
NEW STRUCTURES

New structures on lots front on a Class 4 highway are subject to the requirements of applicable town ordinances.

§68-7
RIGHT OF WAY ACCESS

Selectboard shall control access into the road right of way for the installation or repair of utilities and for access of driveways, entrances, and approaches.

Notwithstanding the above, nothing herein shall be deemed to negate or repeal the necessity to obtain a permit from the Selectboard work in the town's right of way.

§68-8
OVERWEIGHT VEHICLES

Pursuant to 23 VSA §1391, vehicular use of Highways and Bridges is subject to limitation and regulation regarding gross vehicle weights, tire and axle weights, and overall length and widths.

Written approval of the Selectboard or their authorized agent may be granted to use or travel over Highways and by and between the Selectboard and applicant for compensation for wear and tear on the Highways anticipated or caused by use of Highways in excess of the legal weight and size limitations. Vehicles used for agricultural or forest management shall not be held to a higher standard than other Vehicles.

§68-9
POSTING

No highway of any class may be intentionally closed by a gate or other obstruction except upon approval of the Selectboard 19 VSA § 1105. The Selectboard may post a road in accordance with 19 VSA § 1110. The Selectboard may post a Highway for the purpose of preserving the integrity of the road 19 VSA § 304.

§68-10
COMPLIANCE WITH OTHER REGULATIONS

This policy is written to establish and clarify standards of constructions and the authority of the Selectboard and their agents.

All other ordinances and regulations adopted by the Town of Berlin shall remain in full force and effect except to the extent that it conflicts with this policy.

Adopted July 6, 2016

Signed copy of the policy is on file with the Berlin Town Clerk.

§72

SEXUAL HARASSMENT POLICY

It is against the policies of the Town of Berlin, and illegal under State and Federal Law, for any employee, male or female, to sexually harass another employee. The Town of Berlin is committed to providing a workplace free from this unlawful conduct. It is a violation of this policy for an employee to engage in sexual harassment.

What is "sexual harassment?

Sexual harassment is a form of sex discrimination; it means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to that conduct is made either explicitly or implicitly a term of condition of employment.
2. Submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
3. The conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment include, but are not limited to, the following, when such acts or behavior come within one of the above definitions:

- Either explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- Touching or grabbing a sexual part of an employee's body;
- Touching or grabbing any part of an employee's body after that person has indicated, or it is known, that such physical contact is unwelcome.
- Continuing to ask an employee to socialize on or off duty when that person has indicated he or she is not interested;
- Displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters;
- Continuing to write sexually suggestive notes or letters;
- Referring to or calling a person a sexualized name;
- Regularly telling sexual jokes or using sexually vulgar or explicit language;
- Retaliation of any kind for having files or supported a complaint of sexual harassment (e.g. ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);

- Derogatory or provoking remarks about or relating to an employee's sex or sexual orientation;
- Harassing acts or behavior directed against a person on the basis of his or her sex or sexual orientation;
- Off duty conduct which falls within the above definition and affect the work environment.

What the Town of Berlin will do if it learns of possible sexual harassment:

In the event the Town of Berlin receives a complaint of sexual harassment, or otherwise has reason to believe that sexual harassment is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. The Town of Berlin is committed, and required by law, to take action if it learns of potential sexual harassment, even if the aggrieved employee does not wish to formally file a complaint. Every supervisor is responsible for promptly responding to, or reporting, any complaint or suspected act of sexual harassment. Supervisors should report to the Town Administrator or the Chairman of the Selectboard. Failure by a supervisor to appropriately report or address such sexual harassment complaints or suspected act shall be considered to be in violation of this policy.

Care will be taken to protect the identity of the person with the complaint and of the accused party or parties, except as may be reasonably necessary to successfully complete the investigation. It shall be a violation of this policy for any employee who learns of the investigation or complaint to take any retaliatory action which affects the working environment of any person involved in this investigation.

If the allegation of sexual harassment is found to be credible, this employer will take appropriate corrective action. The Town of Berlin will inform the complaining person and the accused person of the results of the investigation and what actions will be taken to ensure that the harassment will cease and no retaliation will occur. Any employee, supervisor, or agent who has been found by the employer to have harassed another employee will be subject to sanctions appropriate to the circumstances, ranging from a verbal warning, up to and including dismissal.

If the allegation is not found to be credible, the person with the complaint and the accused person shall be so informed, with appropriate instruction provided to each, including the right of the complainant to contact any of the State or Federal agencies identified in the policy notice.

What you should do if you believe you have been harassed:

Any employee who believes that she or he has been the target of sexual harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop. If the employee does not wish to communicate directly with the alleged harasser, or if direct communication has been ineffective, then the person the

complaint is encouraged to report the situation as soon as possible to the Town Administrator or the Chair of the Selectboard. It is helpful to an investigation if the employee keeps a diary of events and the names of people who witnessed or were told of the harassment, if possible.

If the complainant is dissatisfied the Town of Berlin's action, or is otherwise interested in doing so, she or he may file a complaint by writing or calling any of the following State of Federal agencies:

- Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, Vermont 05602, 802-828-3171 (voice/TDD). Complaints should be filed within 300 days of the adverse action.
- Equal Employment Opportunity Commission, 1 Congress Street, Boston, Ma.02153, 617-565-3200 (voice) 617-565-3204 (TDD). Complaints should be filed within 300 days of the adverse action.

Each of these agencies can conduct impartial investigations, facilitate conciliation, or, if there are reasonable grounds to believe sexual harassment occurred, take the case to court. Although employees are encouraged to file their complaint of sexual harassment through the Town of Berlin's complaint procedure, an emp0loyee is not required to do so before filing a charge with these agencies.

In addition, a complainant also has the right to hire a private attorney, and to pursue a private legal action in state court within three to six years, depending on the type of claims raised.

Where can I get a copy of this policy?

A copy of this policy will be provided to every employee, and extra copies will be available at the Town of Berlin's clerk's office.

Reasonable accommodation will be provided for persons with disabilities who need assistance in filing or pursuing a complaint of harassment, upon advance request.

Signed copy of the policy is on file with the Berlin Town Clerk.

§73

Social Media Policy

§73-1: Title and Authority

This policy shall be known as the Town of Berlin Social Media Policy. It has been adopted by the Town of Berlin Selectboard pursuant to 24 V.S.A.§§1121,1122 and 872.

The Selectboard reserves the right to amend any of the provisions of this social media policy for any reason and at any time, with or without notice.

The social media policy will be administered by the Town Administrator or authorized representative.

§73-2: Purpose

This document outlines the policies and procedures for and town use of social media sites. The purpose of this policy is to provide standards and procedures for the appropriate use of social media when conducting town business. While this policy generally applies to the most popular sites, such as Facebook, YouTube and Twitter, it is acknowledged that social media is an evolving communications tool and that new resources may become available over time. The town may utilize social media and social media sites to communicate information related to business of the town directly to the public as well as to provide members of the public the opportunity to comment on or participate in discussion concerning town business, including but not limited to operations and services provided by the town. The town encourages the use of social media to further the goals of the town, the missions of its departments and public bodies, and to contribute to the overall vibrancy of its community and degree of participation by its citizenry, where appropriate.

This policy gives direction to town employees, elected officials, volunteers, appointees, public bodies and other authorized affiliated organizations that utilize town's electronic/computer resources to access social media websites and engage in social networking for town purposes. The town has an overriding interest and expectation in deciding what is published on behalf of the town through social media and in establishing guidelines for the use of town social media by town officials and the general public.

§73-3: Definitions

Comment means a statement or response submitted by a town official or member of the public to the town for posting on the town's social media website.

Designated Agent means an individual designated by the town Selectboard to receive and respond to notifications of claimed copyright infringement. Once named, the town must file a "designation of agent" form with the United States Copyright Office.

Social Media means the various forms of information-sharing technology to create web content and dialogue around a specific issue or area of interest. Examples of social media applications include but are not limited to Facebook, MySpace, Google and Yahoo Groups, Wikipedia, YouTube, Flickr, Twitter, Linkedin, Front Porch Forum and news media comment-sharing/blogging.

Town Electronic Equipment means all town electronic equipment including but not limited to computers, cell phones, smart phones, pagers and any other town equipment that may be utilized is to send or receive electronic communications.

Town Official means employees of the town, public officers (whether elected or appointed) and town volunteers.

Town Social Media Site means the official social media site of the town.

Town Social Networking Moderator means an individual designated by the town Selectboard to monitor, manage and oversee social media content.

Visitor means a member of the general public who accesses town social media sites.

§73-4: Conduct of Town Officials

Those designated and authorized to utilize town social media sites do so with the understanding that they are representing the town via social media outlets and must conduct themselves at all times as representatives of the town. Use of town social media sites shall comply with this policy, the town's personnel and any other relevant policies, charter provisions, rules and regulations of the town. This includes any usage of town social media sites from outside of the workplace.

Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment in compliance with the town's personnel policy, employment contract, or collective bargaining agreement as appropriate. Appointees and volunteers found in violation of this policy may be subject to removal from their respected public posts. Elected officials found in violation of this policy may be subject to private or public admonishment and/or may be asked to resign their office. When a town official responds to a

comment in his/her capacity as a town official, the official's name and title should be made available.

Information posted to town social media sites is public information, and there should be no expectation of privacy in regards to the information posted on town social media outlets. Town officials are expressly prohibited from disclosing any information via social media posts that may be confidential.

Town officials are discouraged from using personal accounts to comment on or post information to town social media sites, and/or posting information regarding official town business on other social media sites. All social media site comments and posts by town officials are subject to Vermont's Public Records Law, Open Meetings Law, and all other applicable laws, rules, policies, charter provisions and regulations.

Town officials should have no expectation of privacy regarding anything created, sent or received on the town's electronic equipment. The town may monitor any and all transactions, communications and transmissions to ensure compliance with this policy and to evaluate the use of its equipment.

It is the responsibility of authorized town officials to ensure that information communicated by means of social media is accurate and up-to date.

The Town Social Networking Moderator will monitor the content posted by town officials on each of the town's social media sites to ensure it complies with this policy for appropriate use, messaging and branding, consistent with the goals of the town.

Authorized town officials must be provided with a copy of this policy and sign the Acknowledgment of Official Use by Authorized Town Officials (see Addendum A) prior to utilizing town social media.

§73-5: Comments

For purpose of this policy, town social media falls into two distinct categories:

1. **The Town Government Speech Site** does not allow for any public comments whatsoever. It is reserved for town government to engage in its own expressive conduct to promote its own message. Examples of this type of site include the town's official website and social media sites where public comment has not been enabled.

2. **Limited Public Social Media Forums** are town social media sites where public comment has been enabled to allow for discussion on specific topics as signified by postings by authorized town officials or consistent with the purpose of this policy. Submission of comments by members of the public constitutes participation in a limited public forum. Users and visitors to town social media site shall be notified that the intended purpose of the site is to serve as a mechanism for communication between authorized town officials and members of the public. A comment posted by a member of the public on any town social media site is the opinion of the

commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the town, nor do such comments necessarily reflect the opinions or policies of the town.

Comments by authorized town officials shall be allowed on town social media sites only when consistent with the provisions of this policy. Comments by the general public shall be allowed on limited public social media forums only when consistent with the provisions of this policy. Comments containing any of the following inappropriate forms of content shall not be permitted on any type of town social media site and are subject to editing, removal or restriction, in whole or in part, by the Town Social Networking Moderator:

- Comments not topically related to the particular social medium thread or topic or article being commented upon;
- Comments in support of or opposition to political campaigns or ballot measures of any kind;
- Profane, obscene, or sexual language or content or links to such language or content;
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, or sexual orientation;
- Solicitations of commerce, including but not limited to advertising of any business or product for sale;
- Conduct or encouragement of illegal activity
- Information that may tend to compromise the safety or security of the public or public systems;
- Defamatory or personal attacks
- Threats to any person or organization;
- Conduct that violates any federal, state or local law; or
- Content that violates a legal ownership interest of any other party.

If comments are related to the topic at hand, then the content must be allowed to remain, regardless of whether it is favorable or unfavorable to the town.

The town reserves the right to deny any individual who violates the town social media policy access to posting to town social media sites, at any time and without prior notice.

The town reserves the right to restrict or remove any content that is deemed in violation of this social media policy or any applicable law. Content submitted for posting that is deemed not suitable for posting by the Town Social Networking Moderator because it is not topically related to the particular subject being commented upon, or is otherwise deemed prohibited content based on the criteria set forth in this policy, must be retained in accordance with the relevant records retention schedule. Such content shall be accompanied by a description of the reason it is deemed not suitable for posting along with the time, date, and identity of the poster when available.

All town social media authors and public commenters shall be clearly identified. Anonymous posting shall not be allowed.

These conduct guidelines governing comment on town social media sites shall be displayed on all limited town social medium forums or made available by hyperlink from the town's official website.

§73-6: Account Management

The establishment and use by town officials of town social media sites on behalf of the town is subject to approval by the town or authorized representative.

The town administrator or authorized representative will review all requests to contribute to town social media site and has the sole authority to authorize their use and establish and/or terminate town social media accounts of town officials and pages.

There should be an authorization process for town officials wishing to create an account for the benefit of the town, with the town administrator or authorized representative as the authority to oversee and confirm decisions. In this role, the town administrator or authorized representative will evaluate all requests for usage, verify staff authorized to use town social media tools, and confirm completion of online training for social media if deemed necessary. The town administrator or authorized representative will also be responsible for maintaining a list of all social networking application domain names in use, the names of all administrators of these accounts, as well as the associated user identifications and active passwords.

All town social media sites shall be established by a duly designated town Information Technology (IT) officer with the approval and under the direction of the town administrator and shall be published using approved town social networking platform and tool and administered by the town IT officer.

§73-7: Content Management

The town administrator or authorized representative shall designate a Town Social Networking Moderator to monitor, manage, and oversee all content on each social media site to ensure adherence to this policy, including appropriate use, messaging, and branding that is consistent with the interest, goals, and objectives of the town.

The Town Social Networking Moderator retains the sole authority to remove information from town social media outlets.

Designated department heads and/or other authorized town officials will be responsible for the content and upkeep of any town social media site they may create.

The town does not guarantee the authenticity, accuracy, appropriateness, or security of posted hyperlinks or websites or content linked thereto.

Wherever possible, content posted to the town's social media sites will also be available on the town's official website. Town social media sites should complement rather than replace the town's existing web resources. Content posted on the town's social media sites should contain links directing user to the town's official website for additional information, forms, documents, or online services necessary to conduct business with the town.

All town social media sites shall clearly indicate that they are maintained by the town and shall prominently display necessary town contact information. All town social media sites shall include the prominent placement of the official town seal, if available, along with the following notification:

This is the official (Facebook, Twitter, YouTube..etc) page for the Town of Berlin, Vermont. If you are looking for more information about the Town of Berlin, Vermont please visit www.berlinvt.org , if appropriate, or contact the town by email: info@berlinvt.org or telephone 802-223-4405.

§73-8: Public User Agreement

A copy of this policy shall be accessible from either the town's official website or the town's social media site. The general public shall be informed that agreement to the terms of this policy is a prerequisite to participating in the town's limited public social media forums.

§73-9: Copyright Infringement Notification

The town complies with the provisions of the Digital Millennium Copyright Act of 1998 (DMCA). Federal law (U.S. Copyright Act, Title 17 of the US code, and, more recently, the Digital Millennium Copyright Act, 105 PL 304) makes it illegal to download, upload, or distribute in any fashion copyrighted material in any form without permission or license to do so from the copyright holder.

The town respects the intellectual property of others and requests users of the town's social media sites to do the same. In accordance with the DMCA and other applicable law, the town has adopted a policy of terminating, in appropriate circumstances and at its sole discretion, users, subscribers, or account holders who are deemed to be repeat copyright infringers. The town may also in its sole discretion limit access to its town social media sites and/or terminate the accounts of any user who infringes any intellectual property rights of others, whether or not there is any repeat infringement.

The following notification shall be made accessible on all town social media sites and on the town's official website.

If you believe that any material on the town's official website or town social media site infringes on any copyright which you own or control, or that any link on the town's social media sites directs users to another website that contains material that infringes on any copyright that you own or control, you may file a notification of such infringement with the town's Designated Agent as set forth below. Notifications of claimed copyright infringement must be sent to Town of

Berlin, Vermont's Designated Agent, for notice of claim of copyright infringement. The Town of Berlin, Vermont's Designated Agent may be reached as follows:

Designated Agent:	*Town Administrator*
Address:	*108 Shed Road, Berlin, Vermont 05602*
Telephone:	*802-552-8801*
Email Address:	*townadministator@berlinvt.org*

§73-10: Public Records Law-Compliance

Town social media sites and their related social media content are subject to Vermont's Access to Public Records Law. Information that is produced or acquired in the course of town business, including comments posted to town social media sites, may be a public record-thus, there should be no expectation of privacy in regards to the information posted on these social media outlets.

All files, documents, data, and other electronic messages, created, received, or stored on the town's computer system are open to review and regulation by the town and may be subject to the provisions of Vermont's Public Records Law. A public record consists of any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of town business. Public records, regardless of format, are available for inspection and copying unless there is a specific statute exempting the record from public disclosure. Those records exempt from public inspection and copying are set out at 1 V.S.A. § 317(c).

The town's official website and town social media sites shall clearly indicate that any articles and any other content or comments posted or submitted for posting in whatever format are subject to public disclosure. Content related to town business shall be maintained in an accessible format so that it can be produced in response to a public records request. Users shall be notified that public disclosure requests must be directed to the proper custodian of public records which shall be posted on each town social media site.

§73-11: Pubic Records Law-Retention

Relevant town records retention schedules apply to content on the town's official website as well as to town social media sites. Content posted or submitted for posting shall be retained pursuant to Vermont's Public Records Law in its standard format and in accordance with applicable disposition orders and retention schedules as established by the Vermont State Archivist.

§73-12: Open Meeting Law

Vermont's Open Meeting Law defines a public meeting as a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action. All meetings of a public body are to be open to the public at all times unless otherwise exempted. Members (elected or appointed) of any town public body should refrain from using town social media sites to discuss the business of the public body or taking action by the public body in violation of Vermont's Open Meeting Law. Furthermore, members of public bodies should refrain from commenting on or responding to inquiries related to quasi-judicial matters within the subject matter jurisdiction of their respective public bodies.

Public boards and committees may utilize town social media for gathering of public input and fostering of public discussion related to the role with which it has been charged by statute or the town Selectboard, provided that the use is authorized in accordance with and conforms to this policy.

Information posted by the town on its social media sites will supplement and not replace required notices and standard methods of providing warnings, posting, and notifications required to be made with regard to public meetings and hearings under Vermont law.

§73-13: Legal

All comments posted to any town social media site are bound by that site's applicable statement of rights and responsibilities. The town reserves the right to report any violation of that site's statement of rights and responsibilities to the site provider with the intent of the provider taking appropriate and reasonable responsive action.

ADOPTED THIS 4th day of April, 2016

Ture Nelson	Brad Towne
Jeremy Hansen	Wayne Lamberton
Pete Kelley	

Selectboard of Berlin

Signed copy of the policy is on file with the Berlin Town Clerk.

Addendum A: Acknowledgement of Official Use by Authorized Town Officials

I, _____, acknowledge that:

A. I received a copy of the Town of Berlin, Vermont's social media policy on_____.
Date

B. I have been given an opportunity to ask questions about said policy and I have been provided with satisfactory information in response to my questions:

C. I understand the language used in the policy;

D. I acknowledge that the town reserves the right to add, amend or discontinue any of the provisions of this policy for any reason or none at all, in whole or in part, at any time, with or without notice.

E. I acknowledge that I understand this policy and I agree that I will comply with all of its provisions.

_____ _____
Town Officials Signature *Date*

§75
REQUESTS FOR SPECIAL APPROPRIATIONS
BERLIN VERMONT SELECTBOARD POLICY

The Berlin Selectboard has approved the procedures as outlined below regarding requests from charitable, non-profit organizations under the category of Special Appropriations for Town Meeting. The Berlin Selectboard reserves the right to adjust these amounts as it sees fit, and to reject an increase that they deem to be unwarranted or unaffordable to the Town.

Requests from organizations that have received funding in the current budget cycle must submit a letter of request in order to be included in the Special Appropriations category for the upcoming budget cycle. Any new organizations and/or individuals or those organizations and/or individuals not approved for the current year must get a petition signed by 5% of voter checklist. A petition is also required when an organization and/or individual requests an increase in funding in the Special Appropriations category. In this instance, the organization and/or individual must appear before the Selectboard to request a waiver of the petition requirement for increases in funding. Please contact the Town Clerk's Office for specific information about filing a petition. All organizations seeking Town funding are encouraged to attend the Pre-Town Informational Meeting to answer questions about their request. Organizations or individuals may submit joint petitions with other organizations; however, the petition must clearly sate that the requests are separate, include the amount requested for each organization, and that each request is to be voted separately on the ballot.

REQUIREMENTS

The requesting agency shall submit a detailed letter of request on agency letterhead. The agency's report, as it will appear in the Town Meeting Day Annual Report, must contain the following information: name of the agency, address, telephone number, and hours of operations, executive director, mission statement, and persons served annually, and number of Berlin residents served annually. Please complete the report form, which can be obtained on-line at http://www.berlinvt.org/wp-content/uploads/2014/09/Special-Appropriations.pdf

The information may be returned by e-mail townadministrator@berlinvt.org or by mail, to: Town Administrator, Municipal Office Building, and 108 Shed Road, Berlin, Vermont 05602. The Town reserves the right to reject any request deemed incomplete or have failed to meet established deadlines. Organizations or individuals placed on the Town Meeting ballot by the Selectboard, and requesting a special appropriation exceeding $5,000.00, shall submit an internal audit, tax return, or certified financial statement prior to being placed on ballot.

Adopted on November 1, 2010

Signed copy of the policy is on file with the Berlin Town Clerk.

§78

Town of Berlin
Surplus Property Disposal Policy

§78-1 General:

a) Surplus property is defined as Town owned property that no longer is needed or has no practical use to a particular town department.
b) Items seized, confiscated, or found by the police dep0artment shall be handled and disposed of in accordance with applicable federal and state requirements. Once these requirements have been satisfied, the items may be declared surplus and handled in accordance with this policy.
c) Surplus property with a value of $500 or higher shall be disposed of in accordance with this policy.
d) All surplus property is disposed of "as is" and "where is" with no warranty, guarantee, or representation of any kind, expressed or implied, as to the condition, utility or use-ability of the property offered.
e) Items purchased with grant funds shall be disposed of in accordance with applicable grant requirements.

§78-2 Responsibilities:

a) It shall be the responsibility of the department head to notify the Town Administrator of property it has in its possession.
b) Upon determination by the department head that an item is no longer needed or usable by that department they are responsible to inform the Town Administrator.
c) The Town Administrator will check with other department heads (or applicable town committees/boards) to see if they have use for that item.
d) If no Town Department, Board or Committee has use for the item, it shall then be disposed of.
e) The Town Administrator shall determine the most appropriate method to dispose of an item.
f) The Town Administrator shall determine a minimum price to receive for the surplus item if sold.

§78-3 Methods of Disposal

a) If another department/committee/Board has a legitimate use for the item, it shall be transferred to them.
b) Surplus property may be used in trade if determined to provide maximum return for the town.
c) Surplus property may be transferred to another public agency, with or without compensation if it is determined that it is in the public interest to do so.
d) Surplus property may be sold at:

Public Auction, including auctions conducted by other government agencies. Such auction shall be advertised in advance on the Town's website, Front Porch Forum postings, and in a local newspaper.

I. Sealed bid, request for sealed bids shall be advertised on the Town's website, Front Porch Forum postings, and in a local newspaper.

II. Internet auction sites. All property shall be posted for auction at least two times, with each auction lasting a minimum of 10 calendar days. If the property does not sell after the second auction, another method of disposal shall be chosen.

e) . All auction/bid notices shall include a provision that the Select Board may reject any and all bids.

f) Items that have no practical resale, salvage or scrap value shall be recycled or disposed of in the regular solid waste disposal process in the proper manner for the item. No property shall be given to or salvaged by a Town employee or official.

§78-4 Town employees and officials:

a) Town employees shall be defined as any full-time or part-time employee of the Town of Berlin.
b) Town officials shall be defined as elected officials, commission members, board members, and committee members.
c) Town officials and employees are eligible to bid on property listed for disposal in accordance with this policy, however they shall not bid on property while on duty or while acting in their official capacity.

§ 5 Electronic/Computer Devices

a) Special care must be taken prior to the transfer, sale or disposal of any electronic or computer devices. These include, but are not limited to: desktop computers, laptops, tablets, servers, backup tapes, router, hubs, phones, printers, copiers, scanner, hard drives, flash memory devices including USB thumb drives, SD cards, digital camera storage, CD/DVD'S.
b) Department heads are responsible to ensure that memory devices containing records covered by retention requirements are retained until those time limits are no longer in effect.
c) Due to the time and costs involved in wiping said devices, destruction may be the preferred method of disposal.

Signed copy of the policy is on file with the Berlin Town Clerk.

§80

Tax Sale Policy
Town of Berlin, Vermont

The tax sale policy for the Town of Berlin is advisory in nature and the failure to follow one or more of the steps in the policy does not invalidate a tax sale.

§80-1

Purpose:

This policy is to serve as a guide to the Delinquent Tax Collector and the Selectboard for the tax sale process. The Selectboard may authorize the Town Administrator to bid on behalf of the town when it decides it would be in the best interest of the town to do so in the event that there are no other bids on the parcel and the following apply:

1. This is a property that the town may wish to acquire for town purposes.
2. It would be more efficient for the town to sell after the redemption period to avoid the necessity of further tax sale action.

There is no requirement that the Selectboard authorize a bid on any property, each will be considered on its merits.

§80-2

Procedure:

The delinquent tax collector will provide a list of properties subject to tax sale due to delinquent property taxes, water, sewer bills or both. The Selectboard will review to determine if there is any reason not to pursue a tax sale on any of the properties on the list and will so advise the Delinquent Tax Collector. Following this recommendation, the delinquent tax collector will proceed with the tax sale pursuant to V.S.A. 32 §5252. The delinquent tax collector will forward all the information to Town Attorney to continue the process. All legal fees incurred that are allowable by statute will be added to the total due from the tax payer. After review from the Town Attorney, a date will be set for the tax sale. After which, the Board will be given a description of the properties in question, the amount of any delinquencies and the total legal costs incurred for each to date.

The delinquent tax collector will provide to the Selectboard at the Board meeting immediately prior to the tax sale, or if less than one week, at the Selectboard meeting prior to that, the following items:

- A copy of the tax sale notice
- The minimum acceptable bid to include outstanding taxes, interest, penalties, legal costs for attorneys, notices, advertising and certified mail.

- A full description of the property to include a full description of the land and buildings if applicable.
- A copy of the lister's card on the property.

Should the Board agree for further review, a site visit will be scheduled prior to the tax sale attended by Board members, the Town Administrator and the Town Treasurer.

Policy Adopted May 2, 2016
Signed copy of the policy is on file with the Berlin Town Clerk.

§82
Policy on use of Town Vehicles
Town of Berlin, Vermont

§82-1
POLICY OBJECTIVES

The primary objectives of the Town of Berlin's policy on the use of Town vehicles are as follows:

1. To establish rules and procedures for the use of Town vehicles, and
2. To limit the Town's liability related the use of Town vehicles.

§82-2
PROHIBITED ACTIVITIES IN USE OF TOWN VEHICLES

The following activities are strictly prohibited in Town vehicles:

1. The smoking or chewing of tobacco products,
2. The possession or use of fire arms or other weapons (except by certified law enforcement personnel), and
3. The possession or consumption of alcohol or nonprescription drugs.

§82-3
USE OF TOWN VEHICLES

Town vehicles are to be used by employees for the purpose of conducting Town business. Occasional, brief, and appropriate personal use of Town vehicles is permitted, provided it is consistent with this policy and does not interfere with an employee's job duties and responsibilities.

Town vehicles shall not be used by an employee for any outside employment activity.

Use of Town vehicles shall be limited to Town employees.

Town employees shall operate all Town vehicles in accordance with all local, state, and federal laws (with the exception of certified law enforcement officers performing their required duties, and in accordance with the police department's policies and procedures).

All Town vehicles shall remain at the Town office or Town garage during an employee's pre-established vacation time.

All operators of Town vehicles shall hold a valid driver's license and not be under any special conditions or restrictio.

§82-4
INCONSISTENT POLICIES REPEALED

This Policy shall amend and replace any provision of any Policy of the Town of Berlin in effect at the time of enactment of this Police governing any activity included in this Policy.

§82-5
SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Policy, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Policy or any part thereof.

§82-6
EFFECT

No section of this Policy shall be construed to supersede or replace any Vermont statute. This Policy shall be entered in the Minutes of the Select Board's meeting and be incorporated in the Town's Administrative Code.

The foregoing Policy is hereby adopted by the Selectboard of the Town Berlin, Vermont this day of November 16, 2009 and is effective as of this date until amended

Policy reviewed January 16, 2017-No changes made.

Signed copy of the policy is on file with the Berlin Town Clerk.

§84

Town of Berlin

Transitional Return to Work Policy (TRTW)

§84-1

Introduction

The Town of Berlin has set up a transitional return to work program (TRTW) for employees who have sustained a work-related injury. The TRTW attempts to match an injured employee's current functional limitations with temporary work assignments that either are modified in some way to match those limitations or with other task assignments that fall within established medical limitations. The contents of this program outline the philosophy and mechanics of program operation.

§84-2

Policy

By means of temporary job restructuring, offering modified work schedules, and other methods, we seek to enhance the recovery of our injured employees by attempting to temporarily match them with duties and tasks that are within the acceptable limitations or physical restrictions placed on them by the treating healthcare provider. This program does not guarantee that traditional work assignments are available in all situations or for extended periods of time. The provision of suitable work assignments is left to the discretion of the municipality, depending on elements such as the availability of suitable tasks, payroll budgets and departmental workloads and other elements.

§84-3

Overview

The objective of this program is to help injured employees safely recover from a workplace injury by helping them progress from transitional work duties back to their normal duties whenever possible. [2] All duty re-assignments under this program are temporary in nature, subject to the needs of the municipality/town.

Recovering from most injuries normally requires limiting physical activity in some manner. Going to work and performing duty assignments with reduced physical demands helps to maintain physical conditioning that will promote faster recovery and reduce the potential for

[2] This program is not intended to address permanent limitations resulting from serious injuries suffered by employees, nor is it intended as an offer of an alternate job or position within the municipality.

permanent damage. It also helps employees maintain a sense of work ethic, self-worth and also helps maintain social relationships, all of which help speed recovery.

We communicate our TRTW to all employees at the time of hire and periodically as necessary. The TRTW commitment statement (attached) is incorporated into this policy by reference and will be posted in prominent areas as reminder to all employees of the mechanics of the program and our desire to help employees safely return to full duty after a work-related injury, when feasible.

After injuries are reported, all medical documentation from the treating provider must be provided to Dana Hadley, Town Administrator. The injured worker's supervisor will communicate with the injured worker regarding any transitional duty assignment(s). This will be based on documents received from the treating healthcare provider and a review of potential tasks that are available.

Town authorities are responsible for facilitating return to work and coordinating specific work activities with employees. Supervisors are required to support the municipality's efforts in this regard and also monitor employee work activities whenever possible. In all cases, supervisors are responsible for ensuring that the employee is placed in work situations and has task assignments that meet the restrictions established by the medical provider.

§84-4

Post-Injury

The treating healthcare provider may release the employee to return to work with certain restrictions. To qualify for consideration for transitional duty assignments, the provider must provide a report which clearly identifies the injured worker's physical limitations and defines the physical capabilities of the employee. This is used to help identify possible tasks that fall within the work restrictions. In cases where it is not clear that identified transitional duties fall within the limitations established by the healthcare provider, the municipality or their representative will communicate with that provider to ensure that potential duties are appropriate for that employee.

Offers of transitional duty assignment will be provided to the injured employee using the TRTW commitment agreement to document the proposed tasks and work conditions of the transitional duties and to outline the responsibilities of both the employer and the injured worker. This written agreement will be modified from time to time to reflect changes in duty assignments and as well as changes to the employee's work restrictions.

If a situation arises where an employee feels there is an increase in pain or other symptoms that appear to be related to the original injury, the employee must immediately report that to the employer. Any further loss of time or restriction of duties must be supported by a note from the medical provider.

Any employee who is providing duties assigned under this policy agrees to adhere to the work restrictions established by the medical provider. The injured employee and a municipal representative will sign TRTW commitment agreement.

Per Vermont Worker's Compensation regulations, an injured employee who does not accept an offer of modified duty, may be subject to interruption or termination of indemnity benefits.

The foregoing Policy is hereby adopted by the Selectboard of the Town of Berlin, Vermont on this 4th day of June, 2018

Brad Towne	Pete Kelley
Jeremy Hansen	Angelina Capron
Wayne Lamberton	

Selectboard of Berlin

Signed copy of the policy is on file with the Berlin Town Clerk

§90

AMENDED WASTEWATER ALLOCATION BYLAW
TOWN OF BERLIN, VERMONT
EFFECTIVE DATE JULY 18, 2001

§90-1

The Town of Berlin's in served by the Montpelier Sewage Treatment Plant (PLANT) and Sewage System (SEWERS) as defined in 24 VSA Sec. 3501 (6) and 3601. The Town has an allocated capacity 9ALLOCATED CAPACITY) and the plant assigned by an inter municipal agreement PLANT has a designated capacity, and is operated in accord with a discharge permit issued by the Vermont Department of Environment Conservation (Department) under authority granted in V>S>A> Chapter 47. The Town is obliged by law to comply with conditions of that permit, and to manage this allocated capacity and SEWERS as governmental functions under and pursuant to 24 VSA Chapters 97 and 101.

§90-2

The permitted ALLOCATION CAPACITY and SEWERS are the property of the Town. The uncommitted capacity of the ALLOCATED CAPACITY and SEWERS are to be allocated by the Seer commissioners in the manner prescribed below. This ordinance is adopted pursuant to the provisions of 10 VSA Sec 1263 (g) (1), in the manner provided in 24 VSA 1962-1973, and is not to be construed as an abandonment or relinquishment of the responsibility of the Town to regulate, control, and supervise all to impair or inhibit the ability of the Town to contract with persons for the collection, transmission, and treatment of sewage. Those standards are designed to allow continued responsible growth with the designed primarily to abate existing pollution problems and secondarily to facilitate land development in accordance with the Town Plan.

§90-3

Persons wishing to use the ALLOCATED CAPACITY and SEWERS must apply to the Sewer Commissioners on a form prescribed by the Commissioners. Except in the case of a residence, the application must be accompanied by a certification of a registered professional engineer attesting to the average daily wastewater to flow to be generated by the project or development which will be introduced into the PLANT and SEWERS based on the current State of Vermont Environmental Protection Rules. For residences the rules in the current State of Vermont Environmental Protection rules apply.

§90-4

The Sewer Commissioners must approve the request for use of uncommitted capacity of the ALLOCATED CAPACITY upon making affirmative finding's that:

a. The proposed wastewater is of domestic sanitary origin and there is sufficient uncommitted reserve capacity as determined by (6), below, to accommodate the volume and strength of proposed connection;
b. The proposed wastewater is not of domestic sanitary origin, that there is sufficient uncommitted reserve capacity as determined by (6) below, and that sufficient

evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the PLANT and SEWERS and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit, pass through the PLANT without treatment, interfere or otherwise disrupt the proper quality and disposal of PLANT sludge, or be injurious in any other manner to the PLANT or SEWERS.

c. All applicable State, Federal, and Municipal licenses, approvals and permits have been secured by the applicant for the project or development to which connection is to be made; and
d. The proposed connection shall be made directly to a municipal sewer line, and in accordance with plans and specifications submitted by the applicant; such plans and specifications shall be certified by a registered professional engineer.

§90-5

The Sewer Commissioners on making affirmative findings above must issue an interim connection approval which:

a. Specifies the volume, flow rate, strength, and any other characteristics determined appropriate by the Sewer Commission.
b. Prohibits the sale or other transfer of the interim connection approval by the applicant to any other person without written approval of the Sewer Commissioners, except as an appurtenance and an integral part of the project or development approved in accordance with Section (4) c above.
c. Specified the period in time during which the interim connection approval remains valid and any specific conditions which must be fulfilled by the applicant to maintain validity of the interim connection approval, which conditions are to, as a minimum, include:
    1) Is causing a violation of the town's discharge permit; or
    2) Is causing a nuisance or health hazard; or
    3) Is causing damage to the PLANT or SEWERS; or
    4) Is in violation of any other ordinance, bylaw or enactment of the Town relating to the ownership, operation and; management of public or private sewer; or
    5) Is the subject of delinquent sewerage charges, connection charges, impact fees on benefit assessments; or
    6) Has not been constructed or connected in accordance with the plans and specifications previously approved by the Sewer Commissioners.
    7)

§90-5

Committed reserve capacity determination

a. Uncommitted reserve capacity is to be determined by the following calculation;

b. Uncommitted reserve capacity EQUALS DAILY ALLOCATED CAPACITY ALLOWED IN Berlin's Discharge Permit, minus present daily flow to the PLANT from Berlin as calculated by the current State Environmental Protection Rules, minus sum of all interim connection approvals issued but not yet connected to the PLANT

§90-6

Definitions:

a. "Person" has the meaning prescribed in 1 VSA Section 128.
b. "Discharge Permit" means a permit issued pursuant to authority granted in 10 VSA Chapter 57
c. "Sludge" means the solid or semisolid waste product of the sewage treatment process which is not discharge together with plant effluent but is instead disposed of in another manner.
d. "Connection Charge" means a few, herby imposed, equal to $2.00 per gallon of sewage disposal and treatment capacity attributable to the project or development identified in Section 4 c.
e. The terms "may not", "may not be" etc. meant that the activity or action is not allowed and, thus, prohibited.
f. Definitions contained the Berlin Sewer Ordinance apply to this Bylaw.

§90-7

Nothing herein is to be construed as limiting or impairing the authority of the TOWN or its Sewer Commissioners to require connection to the PLANT and SEWERS under the general laws of the State.

§90-8

Allocation of uncommitted reserve capacity is to be made in accordance with the following priorities;

a. 65,000 gal. Per day of uncommitted reserve capacity is to be used only to abate existing and future pollution problems from existing uses.
b. 10,000 gal. Per day of the uncommitted reserve capacity is to be used for future Town of Berlin Municipal office, and schools.
c. 10,000 gal. Per day of the uncommitted reserve capacity is to be used for future government and public service facilities including but not limited to fire stations and hospitals.
d. Other uses are to be allocated capacities in the following priority order;

    1) Existing buildings which can be served by direct connection to existing sewers; 1" (highest) priority.
    2) New buildings which can be served by direct connection to existing sewers: 2nd priority
    3) Existing uses which can only be served by extensions of the municipal sewer; 3rd priority
    4) New development which can only be served by extensions of the municipal sewer; 4th (lowest) priority.

The Sewer Commissioners are to use the priority order in (d) above to allocate remaining capacity or new capacity. In no case may more than 10,000 gal. Per day capacity be allocated in any one year to the uses in (d), therefore, when there are requests for more than the allowed 10,000 gal. Per day, per year, the Sewer Commissioners to be allocated capacity in accordance with the above priority system.

This Bylaw becomes effective on March 7, 1989, as amended on March 02, 2001.

Signed copy of the ordinance is on file with the Berlin Town Clerk.