

Vermont League of Cities & Towns

SELECTBOARD ESSENTIALS: LEGAL ROLES AND RESPONSIBILITIES

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AGENDA

Sources of Authority

Scope & Limits of Authority

Three Roles

Main Tools

Tips

Resources

WHAT IS A MUNICIPALITY?

In Vermont, a municipality includes a:

- City
- Town
- Incorporated Village
- School District
- Incorporated School District
- Fire District
- All other governmental incorporated units.

SOURCES OF AUTHORITY: LEGISLATURE

- No authority given by Vermont's Constitution.
- Legal authority comes exclusively from the Vermont Legislature.
- Municipalities in Vermont are political subdivisions of the State of Vermont.



SOURCES OF AUTHORITY: HOME RULE VS. DILLON'S RULE

“We have consistently adhered to the so-called Dillon’s Rule that a municipality has only those powers and functions **specifically authorized by the legislature, and such additional functions as may be incident, subordinate or necessary to the exercise thereof.**”

Petition of Ball Mountain Dam Hydroelectric Project,
154 Vt. 189 (1990)

SOURCES OF AUTHORITY: DILLON'S RULE



Local governments have only **three types** of power:

1. Those granted in **express** words;
2. Those **necessarily or fairly implied in** or **incident to** the powers expressly granted; and
3. Those **essential to** the declared objects and purposes of the corporation.

SOURCES OF AUTHORITY: GOVERNANCE CHARTERS

What?

Ability to deviate from general state law.

Who?

All 9 of Vermont's cities, 48 towns, and 25 villages.

Where?

Title 24A of the Vermont Statutes



SOURCES OF AUTHORITY: FINDING THE LAW

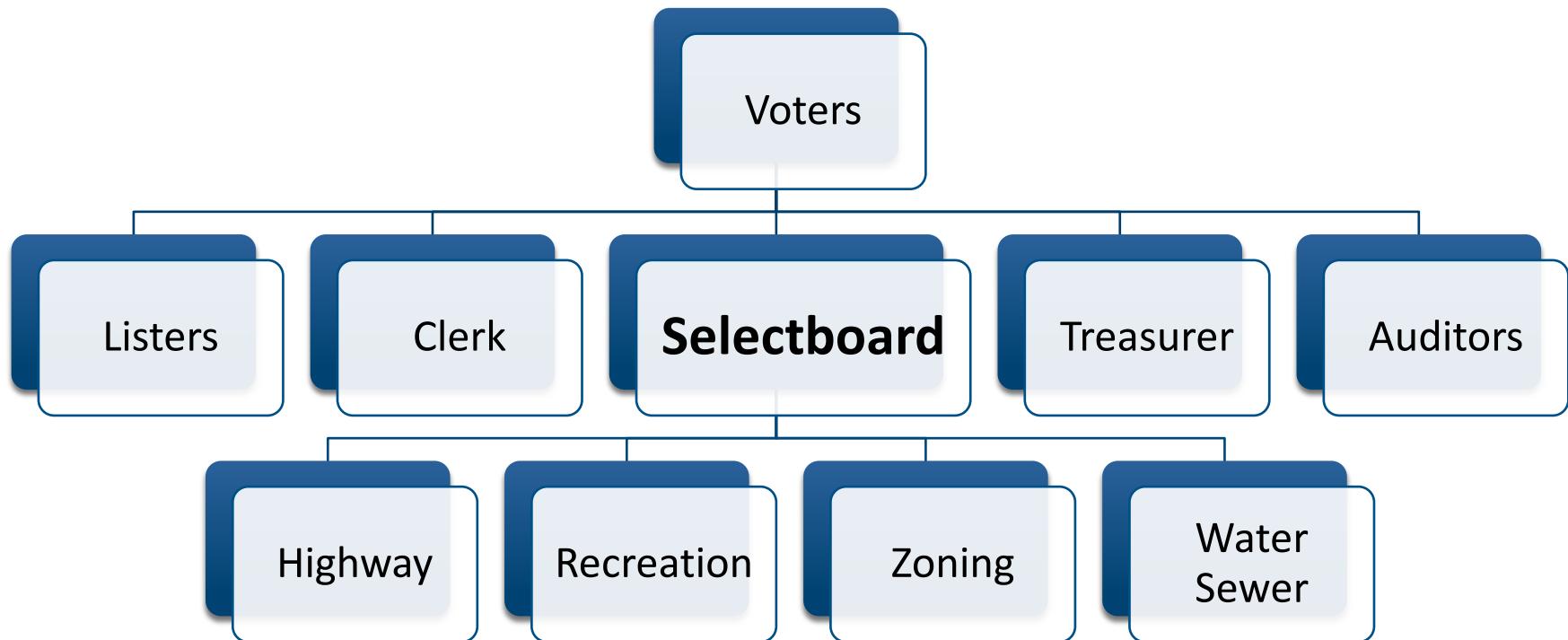
Basic legal research of various sources of authority

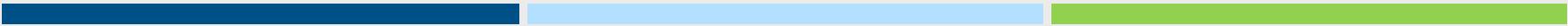
State

Federal

[Finding the Law webpage](#)

SCOPE & LIMITS: STRUCTURE OF MUNICIPAL GOVERNMENT

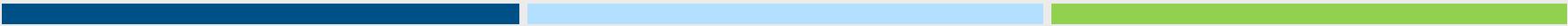




SCOPE & LIMITS: GENERAL SUPERVISORY AUTHORITY

“The selectboard shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.”

24 V.S.A. § 872(a)



SCOPE & LIMITS: GRANTED OR DELEGATED AUTHORITY

Municipal officials have only the powers **granted** to them in state statute or **delegated** to them by other municipal officials.

SCOPE & LIMITS: LEGAL INDEPENDENCE OF ELECTED OFFICIALS

The selectboard has no authority to require elected municipal officials to perform their duties in a manner that is agreeable to the selectboard.



SCOPE & LIMITS: LEGAL INDEPENDENCE OF ELECTED OFFICIALS



“The clerk and the select[board] are all elected officers of the town. Each has certain duties to perform. Those of the clerk are not made subject to the approval of the select[board]. They have general supervision of the affairs of the town, to be sure [but] the select[board] have **no express power to require the town clerk**, who keeps [their] records in a lawful manner, **to conform to their ideas** as to what method [they] shall use.”

*Town of Bennington v. Booth,
101 Vt. 24 (1928)*

SCOPE & LIMITS: LEGAL INDEPENDENCE OF ELECTED OFFICIALS



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Compensation of most elected officials:

- If voters do not set, selectboard has authority. 24 V.S.A. § 933.

Vacancies:

- Selectboard has authority to fill vacant seats.
- Voters may be given or may demand opportunity to fill vacancy by vote. 24 V.S.A. § 961.



SCOPE & LIMITS: APPOINTED OFFICIALS AND EMPLOYEES

Selectboard has authority over appointed officials and employees.

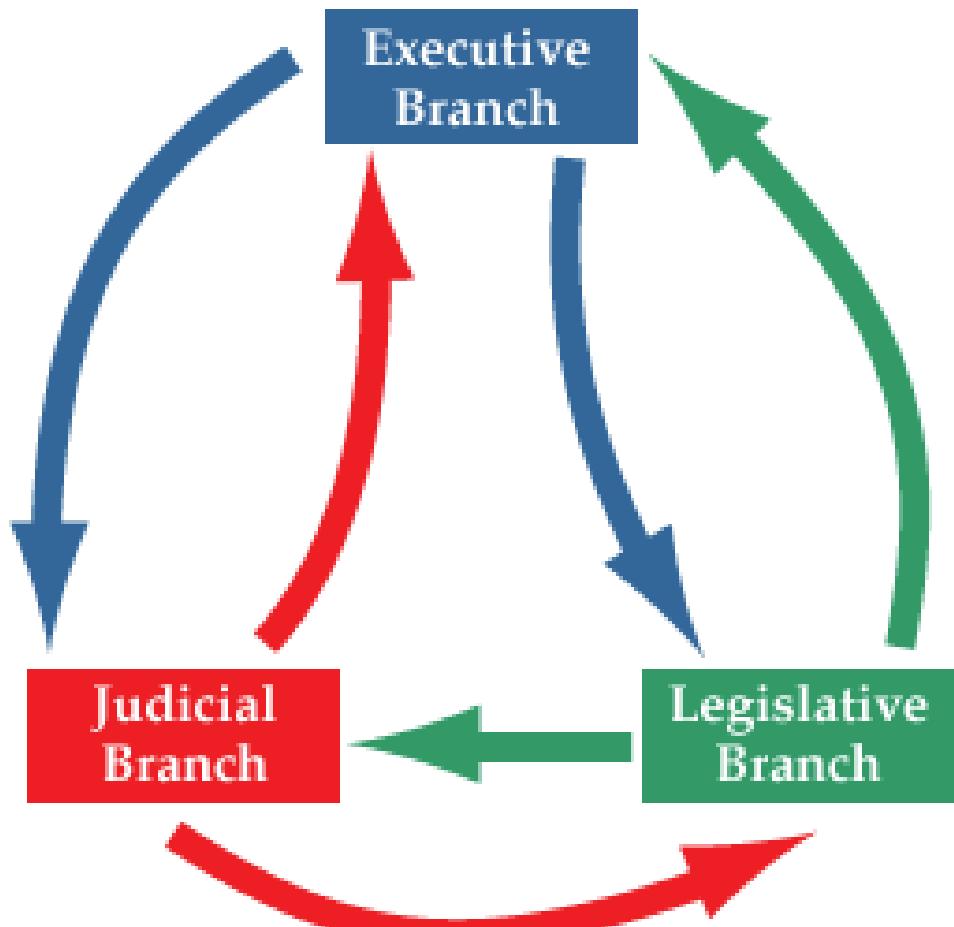
BUT some appointed officials have heightened employment protection, as specified in statute (e.g., zoning administrator, town manager).

SCOPE & LIMITS: JOINT AUTHORITY

Your election, in and of itself, does not give you the power to act:

“When joint authority is given to three or more, the concurrence of a majority of such number shall be sufficient and shall be required in its exercise.”

1 V.S.A. § 172



THREE ROLES

THREE ROLES: EXECUTIVE

A Selectboard can adopt **policies** to govern:

- Personnel;
- Facility use/renting of town buildings;
- Conflicts of interests (mandatory);
- Purchasing and bidding;
- Class 4 road maintenance;
- Plowing;
- Open Meeting/Public Records;
- Drug and alcohol;
- Investment of town funds (with agreement of the Treasurer);
- Delinquent tax collection (with agreement of the DTC);
- Social media, etc.



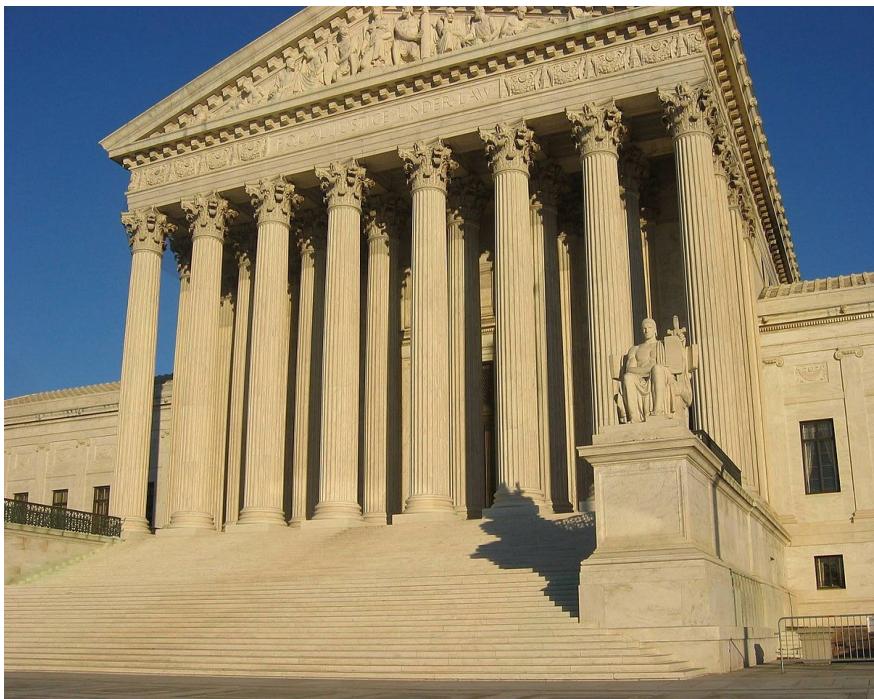
THREE ROLES: LEGISLATIVE

A Selectboard can enact **ordinances** and **bylaws** to regulate:

- Land use development;
- Vehicles (speed limits/parking) and pedestrian traffic;
- Junkyards;
- Domestic pets and animals/animal cruelty;
- Storage/dumping/burning of solid waste;
- Public nuisances (e.g. loitering, noise, etc.);
- Possession/consumption of open alcoholic beverages;
- Dangerous/vacant buildings;
- ATV/snowmobile operation;
- Building/housing/plumbing codes; etc.



THREE ROLES: QUASI-JUDICIAL



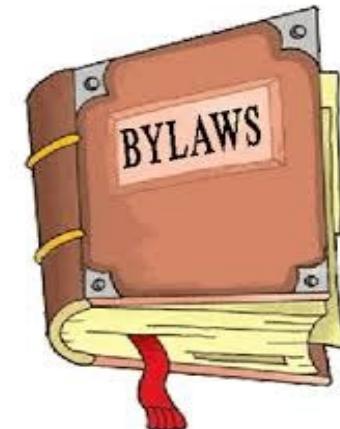
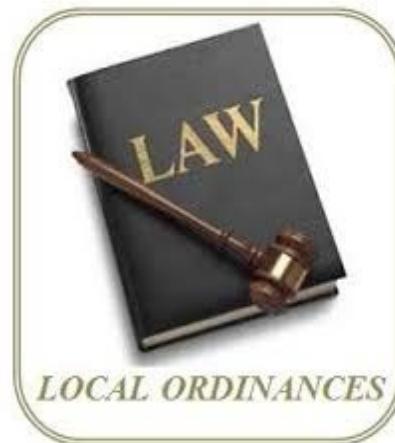
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A Selectboard may have to conduct **hearings** on:

- Terminating employees;
- Laying out, discontinuing, reclassifying roads;
- “Vicious” dogs;
- Tax appeals (as members of the Board of Civil Authority);
- Request for abatement (as members of the Board of Abatement);
- (Emergency) health order appeals;
- Highway access permits;
- Tree warden appeals;
- Local liquor control licenses.

MAIN TOOLS

1. Municipal
Ordinances/Bylaws
2. Municipal Policies



MAIN TOOLS: ORDINANCES

An ordinance is a “**a local law** of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct, relating to the corporate affairs of the municipality.”

~ *McQuillin The Law of Municipal Corporations*, 6A McQuillin Mun. Corp. § 15.1 Definitions (3rd ed.) (1997).



MAIN TOOLS: ORDINANCES

- “For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers...”
- Central source is 24 V.S.A § 2291 which lists 29 different regulatory powers.

MAIN TOOLS: ORDINANCES

- An ordinance is adopted, amended or repealed using the same statutorily prescribed process detailed in 24 V.S.A. §§ 1971, et seq.
- Failure to follow the process could invalidate the ordinance.



MAIN TOOLS: ORDINANCES

- **Pass.** Action must occur at a duly-warned meeting.
- **Post.** A copy of the ordinance must be posted in five conspicuous places within town.
- **Publish.** The full text or a concise summary of the ordinance must be published in a newspaper of general circulation within 14 days following adoption.
- **Petition?** Effective 60 days after adoption date unless, within 44 days, 5% of voters petition for vote to disapprove the changes.
- **Record.** The ordinance must be recorded by the town clerk in the town records. [24 V.S.A. §§ 1972-1973](#)

MAIN TOOLS: POLICIES



- Ordinances are oriented ***outward*** to the public; policies are oriented ***inward*** toward government operations.
- Apply to employees, volunteers, appointed officials, town facilities, and/or the selectboard itself.
- Adopted by majority vote of the Selectboard.

TOPICS

Municipal
Budget

Finances

Management

Human
Resources

Infrastructure

Economic
Development

Land Use

Public Health
& Safety

TIP #1: MANAGEMENT ASSISTANCE

Would you like some help with that?



TIP 1: MANAGEMENT ASSISTANCE

Selectboard Assistant:

- Hired by the selectboard;
- Duties typically include providing clerical assistance and set by board.

Town Administrator:

- Hired by the selectboard;
- Duties and responsibilities outlined in job description.

Town Manager:

- The voters can adopt the town manager form of government;
- Creature of statute - authority derived from law - Title 24, Chapter 37.

TIP #2: STRONG LEADERSHIP

- Selectboard is responsible for answering the question, “Where are we going?”
- Planning for the future:
 - Capital planning and budgeting;
 - Tax rate, borrowing;
 - Economic development decisions;
 - Land use regulations.
- You determine what services are reasonable for the town to provide.



TIP #2: STRONG LEADERSHIP



- Balance competing priorities
- Collaborate with surrounding communities on areas of mutual concern/cost savings
- Put the town's interests above your own

RESOURCES

- **Vermont Statutes Online**

<https://legislature.vermont.gov/statutes/>

- **VLCT MAC Member Inquiry Service**

- <https://www.vlct.org/municipal-assistance/member-legal-inquiry-service>
- info@vlct.org
- **(802) 229-9111**

- **VLCT Municipal Calendar**

<https://www.vlct.org/featured-resources/municipal-calendar>

RESOURCES

MANUAL FOR SELECTBOARD MEMBERS: TOPICS PAGES

- Dog & Domestic Pet Control
- Ethics & Conflicts of Interest
- Finance
- Governance
- Human Resources
- Open Meeting Law
- Property Taxes
- Public Records Act
- Roads and Trails
- Technology & Cybersecurity
- Town Meeting
- Tree Law



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QUESTIONS



MAC MEMBER LEGAL INQUIRY SERVICE

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(802) 229-9111