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In response to questions posed by our members about how COVID-19 affects the upcoming 2021 annual town meeting, the Municipal Assistance Center has assembled the following information related to the use of Australian ballot voting, conducting electronic meetings, voter backed petitions, and candidate signatures. For information on how to administer the Australian ballot voting system (e.g. developing, processing, or counting ballots, etc.) please contact the [VT Secretary of State's Elections Division](#) [1]. For additional information about other COVID-19 related resources, please visit our Coronavirus Resources and Recommendations webpage, www.vlct.org/coronavirus [2].

[**Our town votes from the floor on Town Meeting Day. Can we continue that practice?**](#)

Yes, so long as you comply with mandatory health and safety requirements from the CDC, VT Department of Health, the Agency of Commerce and Community Development, and the Secretary of State's office. Current guidelines place the mandatory maximum occupancy limits at 50 percent fire safety capacity, 1 person per 100 square feet, and a maximum of 75 people indoors. Towns must also adhere to the VT Agency of Commerce and Community Development's "Phased Restart Work Safe Guidance" on social distancing, sanitizing, handwashing, etc., available at: <https://accd.vermont.gov/covid-19/business/stay-home-stay-safe-sector-specific-guidance#municipalities> [3].

[**Can we hold town meeting, including floor voting, remotely?**](#)

No. There is currently no explicit authority in Vermont law for municipalities to conduct town meetings that are held from the floor by electronic means. VLCT's Advocacy team strongly encourages municipal officials to reach out to their legislators and request temporary, voluntary authority to hold the 2021 town meeting remotely. Please contact our advocacy team if you have further questions. Gwynn Zakov gzakov@vlct.org [4] or Karen Horn khorn@vlct.org [5].

[**New 12/9! We don't want to switch to Australian ballot, even just for one meeting. But we also want our voters to be safe. Can we postpone our annual meeting?**](#)

Technically, you can. Towns are required by law to meet every year on the first Tuesday of March for

the election of officers and the transaction of other business, but that same law allows such meeting to be adjourned, i.e. postponed to another date. [17 V.S.A. § 2640\(a\)](#) [6]. First, the selectboard would need to warn its annual meeting as it ordinarily would. In order to postpone it, at least three voters would need to assemble at the scheduled meeting place. Ideally, one person would be the moderator who would be accompanied by two additional voters who will be needed to make and second motions. The moderator would start the meeting, then one voter would make a motion to adjourn the meeting to a date and time certain (e.g. June 30th) and the other would second the motion. The advantage of this option is that if the annual meeting were “postponed” in this manner, it would not have to be re-warned. The disadvantage is that there would be no way to guarantee that members of the public would not show up, which of course is the problem you must avoid in the first place. This course of action would require as much notice of the selectboard’s intentions to postpone town meeting as possible beforehand to avoid unsafe gathering at the meeting place.

[What if we can’t comply with the guidelines or anticipate more people attending than is allowed?](#)

Then the selectboard should adopt the Australian ballot system for Town Meeting Day. In response to the concerns posed by COVID-19, the Vermont Legislature passed [Act 162](#) [7] which is in effect now. The temporary law allows municipalities that normally vote from the floor on Town Meeting Day to instead use the Australian ballot method of voting by vote of the selectboard. Municipalities whose meeting locations don’t allow for social distancing or expect more people than the maximum capacity currently allowed may find the switch to an Australian ballot system helpful during the ongoing pandemic.

[How do we switch to Australian ballot?](#)

The selectboard must vote, by approval of a majority of its total membership, at a duly warned meeting to adopt the Australian ballot system of voting. Under current law, only the municipality’s voters may vote to allow the switch to the Australian ballot system. However, [Act 162](#) [7] temporarily allows a municipality to apply the Australian ballot system to any or all of its meetings (e.g., special and annual) held in the year 2021 by vote of its selectboard.

[Is there a date by which the selectboard must vote to adopt the Australian ballot system for town meeting 2021?](#)

Ideally, this decision should be made as soon as possible. In terms of an absolute deadline, this decision would need to be made prior to the selectboard approving the warning for town meeting which is not less than 30 days before Town Meeting Day. Additionally, Town Meeting Day must be noticed not less than 30 days before the meeting.

[New 11/24! What if something prevents us from voting by Australian ballot or we vote after the deadline to notice the town meeting warning?](#)

The selectboard may request that the Secretary of State waive any statutory deadlines or other statutory provisions, or provisions set forth in a town’s governance charter or a school district’s

articles of agreement, related to a town election as necessary in order for a town to apply the Australian ballot system to its meeting.

New 12/9! If our selectboard decides to switch to Australian ballot for the 2021 town meeting, does it need to vote to switch back to floor voting for the 2022 town meeting?

No. The selectboard's vote is only effective for the 2021 calendar year. After 2021, the town's previous method of voting is automatically reinstated. From that point on, if the town wants to use the Australian ballot system to elect its officers, adopt its budget article(s), and/or vote on public question(s), it will have to vote at a special or annual meeting to do so. Once adopted, the system of voting will remain in place until the town votes to discontinue its use.

New 12/9! Once the selectboard votes to switch to Australian ballot voting, can it switch back?

Yes. The selectboard can always change its mind, so long as a majority of its members agree. The selectboard has the option to use the Australian ballot system for any or all of the town's meetings (annual or special) for the calendar year 2021. If the selectboard votes to use it just for its annual meeting, it can subsequently vote to use it for any other meeting during the course of the 2021 year, regardless of its prior vote.

Updated 11/24! We've never used the Australian ballot system of voting. How does it work?

Australian ballot voting is a method of voting at local elections recognized by Vermont general law. The term "Australian ballot" refers to a system of secret voting on warned articles using a pre-printed ballot. The town clerk is the presiding officer for all Australian ballot elections. Australian ballot voting is distinguishable from "floor voting" and voting by "paper ballot," both of which occur during traditional, open style town meetings where a moderator facilitates the discussion and voting on town business. For more information about Australian ballot voting, please refer to our [Australian Ballot Info Sheet](#) [8].

New 12/10! If we switch to Australian ballot, do we still need to elect a moderator?

Yes. The office of moderator is one of the offices that must be elected every year at a town's annual meeting, regardless of how it votes. 17 V.S.A. § 2646(a).

New 12/9! When do ballots have to be ready?

Ballots must be available not later than 20 days before the local election. [17 V.S.A. § 2681a\(a\)](#) [9]. Please consult VLCT's [Municipal Calendar 2020-2021](#) [10] for relevant deadlines.

[New 12/9! How do we present public questions using the Australian ballot system?](#)

Public questions must be written in the form of a question, with boxes indicating a choice of "yes" and "no" directly under or to the right side of the public question. Some questions have required statutory language, such as a municipal vote to adopt the town manager form of governance. [24 V.S.A. § 1243](#) [11]. For sample town questions (articles), see our [Model Town Meeting Articles](#) [12] resource

[New 12/9! How do we elect candidates to local office using the Australian ballot system?](#)

The person receiving the greatest number of votes for an office shall be declared elected to that office. [17 V.S.A. § 2682](#) [13]. In addition to receiving the greatest number of votes for an office, a write-in candidate must also receive at least 30 votes or the votes of one percent of the registered voters in the town, whichever is less. [17 V.S.A. § 2682a](#) [14].

[New 12/9! What if there is a tie in an election for local office?](#)

In the event of a tie, the selectboard within seven days must warn a runoff election to be held between 15 and 22 days after the warning. The runoff election will be limited to those candidates who were tied in the original election. However, if one of the candidates that are tied withdraws their candidacy within five days after the election, the town clerk must certify the other tied candidate as the winner, and there will be no runoff election. [17 V.S.A. § 2682b](#) [15].

[If we vote by Australian ballot, do we have to hold an informational hearing?](#)

Yes. The process for using the Australian ballot system requires a public informational hearing as a precursor to the vote. The selectboard must hold an informational hearing when a town uses this system of voting on any public or budget question. The informational hearing, which is administered by the selectboard, must be held within the 10 days immediately preceding the town meeting at which the Australian ballot system of voting is to be used. The purpose of the informational hearing is to afford the electorate an opportunity to discuss the article(s) on which they will be voting. The hearing serves as the debate component that would otherwise accompany voting when conducted from the floor and it has not been waived.

[New 12/9! Does the informational hearing have to be warned?](#)

Yes. The informational hearing must be warned at least 10 days in advance of the hearing by posting notice of the hearing in at least two physical public places in town and in the town clerk's office. Please consult VLCT's online [Municipal Calendar 2020-2021](#) [10] for relevant deadlines. For more information and resources related to remote meetings, please consult our [Remote Public Meetings Toolkit](#) [16].

Can we hold the informational hearing remotely?

Yes. Unlike town meeting, which is a meeting of the voters, an informational meeting is a meeting of a public body (i.e. the selectboard). Consequently, information hearings may be conducted by electronic means under the existing provisions of Vermont's Open Meeting Law as modified by the temporary COVID-19 measures of Act 92. [17 V.S.A. § 2680\(g\)\(1\)](#) [17].

How do we hold a remote informational hearing?

All members, staff, and members of the public may attend and participate in the remote hearing (e.g., by telephone, Zoom, GoToMeeting, Skype, etc.). Each selectperson who attends electronically must identify themselves when the meeting is convened and must be able to hear and be heard throughout the hearing. The selectboard will not have to designate a physical location in order to meet and, therefore, no one is required to be physically present for the hearing. The selectboard must post information on how the public may access the hearing electronically. This information must be included in the agenda and we recommend including it in all notices or announcements as well. Otherwise, the Open Meeting Law's notice and agenda requirements remain the same. For more detailed guidance, a checklist, and models for remote hearings, please refer to our [Remote Public Meetings Toolkit](#). [18]

New 12/10! Does the town moderator preside over the informational hearing?

The selectboard, not the moderator, is statutorily responsible for the administration of this hearing, although informally many selectboards will defer to the moderator once such an informational hearing begins. However, in a town that has voted to start its annual meeting on any of the three days immediately preceding the first Tuesday in March, the hearing under this subsection may be held in conjunction with that meeting, in which case the moderator presides. [17 V.S.A. § 2680](#) [17].

Do candidates for local election still need to petition to get their names on the ballot?

No. Act 162 eliminates the requirement for candidates to collect voter signatures in order to get their name on the ballot for a local election held at a 2021 town meeting. However, Act 162 did not waive the consent form requirement. Therefore, any candidate wishing to add their name to a ballot must complete the consent form and submit it to the town clerk.

New 12/9! When do consent forms need to be filed?

Candidates will need to submit their consent forms to town clerks "not later than 5:00 p.m. on the sixth Monday preceding the day of the election" [17 V.S.A. § 2681\(a\)\(1\)\(A\)](#) [19]. Consent forms may be withdrawn by notifying the Town Clerk in writing not later than 5:00 p.m. on the Wednesday after the filing deadline. [17 V.S.A. § 2681\(d\)](#) [19]. Please consult VLCT's online [Municipal Calendar 2020-2021](#) [10] or relevant deadlines.

[Do voter-backed petitions still require signatures?](#)

Yes, but selectboards can choose to waive the petition requirement. A selectboard is required to honor (i.e. place the requested article on the town meeting warning) a voter-backed petition when: 1. the subject of the petition is a matter over which the voters have been given specific authority in statute; 2. the petition is received by the town clerk 47 days or more before the date of the annual meeting; and 3. the petition meets the other requirements of [17 V.S.A. § 2642\(a\)\(3\)](#) [20], including that it contains the signatures of at least five percent of the registered voters of the town. This law has not been changed but, because the selectboard controls the town meeting warning, it can decide to waive the petition requirements. In recognition of the public health hazard posed by people gathering signatures amid a global pandemic, selectboards may opt to lower the bar to entry on the town meeting warning by at least excusing the need for a petition with signatures. This is already commonly done with requests for social service appropriations. In recognition of this practice, our [Model Social Service Appropriation Policy](#) [21] excuses those social service agencies that have had an appropriation request approved at the most recent annual town meeting from submitting a petition for an article appropriating funding to their group if the amount requested is the same or less than the amount approved by the voters in the previous year. Selectboards seeking to lower this threshold should adopt a policy to ensure that its decision-making process is fair, impartial, and uniformly applied.

[Can voters use electronic signatures on their petitions?](#)

Only if the selectboard approves of the practice. The Legislature has yet to change any of the laws governing petitioned articles whether they be for the support of social service agencies or for placing articles on the town meeting warning. Therefore, the decision as to whether to honor electronic signatures or to even require any signatures at all at this time resides with the selectboard. Generally, whether electronic signatures can be used in the State of Vermont depends on the circumstances. Under the VT Uniform Electronic Transactions Act, if a law requires a signature, an electronic signature will suffice. An “electronic signature” is defined under the law as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” [9 V.S.A. § 276\(d\)](#) [22]. The full law may be accessed here: <http://legislature.vermont.gov/statutes/chapter/09/020> [23]. This law, however, was written with the intention of applying to “transactions” as defined under the law, not local elections and a selectboard would not be compelled to accept such signatures if submitted. Nevertheless, we recognize the benefit of having petitioners avoid the public health hazards associated with obtaining signatures during a time of pandemic by honoring electronic signatures. One possible option would be for the selectboard to adopt a resolution stating that, in recognition of the dangers wrought by COVID-19, it will honor electronic signatures on voter-backed petitions for all purposes for the duration of the declared state of emergency under the circumstances it establishes (i.e. in compliance with the VT Uniform Electronic Transactions Act). The potential benefit of such an approach would be that even if the validity of a petition was challenged on the basis that the law does not recognize the use of electronic signatures for such a purpose, the placement of the article on the warning would still stand as it would have been initiated of the selectboard’s own accord.

Links

[1] <https://sos.vermont.gov/elections/>

[2] <http://www.vlct.org/coronavirus>

[3] <https://accd.vermont.gov/covid-19/business/stay-home-stay-safe-sector-specific-guidance#municipalities>

- [4] <mailto:gzakov@vlct.org>
- [5] <mailto:khorn@vlct.org>
- [6] <https://legislature.vermont.gov/statutes/section/17/055/02640>
- [7] <https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT162/ACT162%20As%20Enacted.pdf>
- [8] <https://www.vlct.org/resource/australian-ballot-info-sheet>
- [9] <https://legislature.vermont.gov/statutes/section/17/055/02681a>
- [10] <https://www.vlct.org/resources/vermont-municipal-calendar-2020-2021>
- [11] <https://legislature.vermont.gov/statutes/section/24/037/01243>
- [12] <https://www.vlct.org/resource/model-town-meeting-articles>
- [13] <https://legislature.vermont.gov/statutes/section/17/055/02682>
- [14] <https://legislature.vermont.gov/statutes/section/17/055/02682a>
- [15] <https://legislature.vermont.gov/statutes/section/17/055/02682b>
- [16] <https://www.vlct.org/municipal-assistance/municipal-topics/remote-public-meeting-toolkit>
- [17] <https://legislature.vermont.gov/statutes/section/17/055/02680>
- [18] <https://www.vlct.org/municipal-assistance/municipal-topics/remote-public-meeting-toolkit>
- [19] <https://legislature.vermont.gov/statutes/section/17/055/02681>
- [20] <https://legislature.vermont.gov/statutes/section/17/055/02642>
- [21] <https://www.vlct.org/resource/model-social-service-appropriation-policy>
- [22] <https://legislature.vermont.gov/statutes/chapter/09/020>
- [23] <http://legislature.vermont.gov/statutes/chapter/09/020>