GUIDANCE DOCUMENT FOR MODEL SNOWMOBILE ORDINANCE

To: Selectboard members, Municipal Managers and Administrators

From: Municipal Assistance Center Director

Date: December 2017

RE: Model Snowmobile Ordinance

INTRODUCTION
The VLCT Model Snowmobile Ordinance has been developed to allow selectboards to regulate snowmobile use within the town. This Model also provides the means for selectboards to open additional town highways and sidewalks for snowmobile travel. As explained below, Vermont State law confers the right to operate snowmobiles on any town highway that is not maintained and plowed for vehicular use by the town during the snow season. Therefore, if a town does not maintain and plow a town highway during the snow season then it may not prohibit snowmobile use on this town highway. A town may, however, impose restrictions regarding the time and manner of operation of snowmobiles and within the town. 23 V.S.A. § 3210; 24 V.S.A. § 2291(4). Such restrictions must be imposed in an ordinance in order to be enforceable.

HOW TO CUSTOMIZE THIS MODEL
This model ordinance should be customized to suit the particular needs of your municipality, giving careful consideration to each element in light of your community’s resources and expectations. Opportunities for editing this ordinance are marked with italicized text. The selectboard should consult with law enforcement to insure that the provisions of the ordinance are relevant and realistic in terms of the resources needed for enforcement.

STATE RESTRICTIONS ON SNOWMOBILE OPERATION
Regardless of whether there is local snowmobile ordinance in place, snowmobile operators must comply with state laws regulating snowmobile operation. For information on these laws, consult the Vermont Department of Motor Vehicles handbook on Snowmobile Operations, available on the DMV website: http://dmv.vermont.gov/sites/dmv/files/documents/VN-035-Snowmobile_Manual.pdf.

RIGHTS CONFERRED BY STATE LAW
State law provides that snowmobile operators have the right to travel on any town highway that is not maintained by the town in winter. In addition, snowmobiles may be operated on a town highway if the path of travel is located five or more feet from the plowed portion of the highway. 23 V.S.A. § 3206.

Snowmobiles may be operated across a town highway when all of the following are present:
1. the crossing is made at an angle of 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
2. the operator brings the snowmobile to a complete stop before entering the traveling portion of the highway;
3. the operator yields the right of way to motor vehicles and pedestrians; and
4. the operator is 16 years of age or older, or, if 12 to 15 years old, is under the direct supervision of a person 18 years of age or older.

LOCAL RESTRICTIONS
The rights to operate a snowmobile that are bestowed by state law (see above) may not be prohibited by a town. A town may, however, impose its own local restrictions regarding the time and manner of operation of snowmobiles such as setting limits on the speed and time of snowmobile operation, prohibiting racing, or requiring single file operation. These limits are addressed in the VLCT Model Ordinance. Any ordinance regulating use must be consistent with state law.

OPENING TOWN HIGHWAYS TO SNOWMOBILES
A selectboard may choose to allow snowmobile operation on town highways that are not otherwise open under state law, 23 V.S.A. § 3206. The best way to accomplish this is to adopt a snowmobile ordinance that lists the highways open to snowmobile travel and imposes any relevant regulation on the time and manner of snowmobile operation. Any highways that are opened to snowmobile travel must be posted with signs that provide notice that the highway is open to snowmobile travel. Signage must be in conformance with the Manual of Uniform Traffic Control Devices (MUTCD), as required by 23 V.S.A. § 1025.

ORDINANCE ENFORCEMENT
The violation of a state law or local snowmobile ordinance is a "traffic violation" pursuant to 23 V.S.A. § 2302(a)(4) and therefore may only be enforced by issuance of a traffic ticket by a certified law enforcement officer. Tickets for violation of a local ordinance are issued on the State's pre-printed "Uniform Traffic Complaints" which are available in booklets from the Vermont Judicial Bureau, P.O. Box 607, White River Junction, VT 05001-0607. When the issuing officer wishes to enforce a local ordinance, he or she will fill out a ticket, provide two copies to the alleged violator and retain two copies, one of which is sent to the Judicial Bureau. A ticket can be served in person or by mail. The law does not require it, but we recommend certified mail, return receipt requested.

A violator can respond to a ticket/complaint in one of four ways:

- Admit to the offense and pay the waiver fee.
- Not contest the charge and pay the waiver fee.
- Deny the charge and request a hearing.
- Fail to respond within the requisite 20 days, resulting in a default judgment. In such case, the violator is ordered to pay the full amount of the fine (rather than the waiver fee).

If the violator pays the waiver fee, the money collected by the Judicial Bureau is sent to the town, minus an administrative fee which is retained by the Bureau for administrative expenses.

If the violator asks for a hearing, it will be held by a hearing officer assigned by the Judicial Bureau. The Bureau is designed to be used without attorneys. Therefore, if there is a hearing in the Judicial Bureau the law enforcement officer who issued the ticket must appear to represent the town. The burden of proof is on the town and the violation must be proven by “clear and convincing evidence.” If the defendant or town is unhappy with the outcome of the hearing at the Bureau, an appeal may be taken to Superior Court.
PENALTIES
The financial penalties for some snowmobile violations are set by the State and therefore may not be altered by town ordinance. These penalties are listed on the Judicial Bureau’s website:
https://www.vermontjudiciary.org/judicial-bureau.

Fines that are not set by the State must be set by the selectboard in amounts not to exceed $800. The selectboard may also set a "waiver fee" for each offense. This is the fee that defendants pay to avoid contesting a municipal traffic ticket in the Judicial Bureau. When setting the penalty and waiver fee amounts, the selectboard must determine what amounts are sufficient to deter violations of the ordinance. Fines are punitive in nature, and therefore, the amount of the penalty does not have to correspond to the costs incurred by the town in enforcing the ordinance. Waiver fees should be set to discourage contested actions. Subsequent violations of the same ordinance should lead to an increased penalty and waiver fee.

ORDINANCE ADOPTION PROCESS
The adoption of ordinances (other than zoning ordinances) is governed by 24 V.S.A. §§ 1972, 1973. The process starts when the ordinance is drafted and reviewed by the selectboard. The selectboard then adopts the ordinance by a majority vote of its members at a duly-warned selectboard meeting ensuring that the action and a copy of the proposed ordinance are entered in the minutes of the meeting. The ordinance must be posted in at least five conspicuous places in town and must be published in a newspaper of general circulation on a day not more than 14 days after the selectboard's vote to adopt the ordinance. The information included in the newspaper must include the following: the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text of the ordinance may be examined. The notice must also explain citizens’ rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in 24 V.S.A. § 1973.

If a petition signed by at least five percent of the voters of the town is received by the town clerk within 44 days following the date of adoption of the ordinance, the selectboard must either: (1) call a special town meeting within 60 days from the date of receipt of the petition; or (2) if the annual town meeting falls within the 60-day period, include an article asking the voters whether they will disapprove of the ordinance in the warning for that annual meeting. 24 V.S.A. § 1973(c).

This model ordinance has been developed for illustrative purposes only. VLCT makes no express or implied endorsement or recommendation of any ordinance, nor does it make any express or implied guarantee of legal enforceability or legal compliance, or that any ordinance is appropriate for any particular municipality. Each municipality is advised to seek legal counsel to review any proposed ordinance before adoption and / or use. VLCT PACIF members are advised to seek input from their municipality’s loss control specialist regarding insurance considerations and risk avoidance.