TOWN OPERATIONS COVID-19 FAQs


As the State of Vermont transitions from emergency response to restart and recovery, we have updated the former “Town Office Closures COVID-19 FAQs” and “Essential Local Government Functions and Services” documents and combined them into this single “Town Operations COVID-19 FAQs” document.

In response to questions posed by our members about how COVID-19 affects general municipal operations, the Municipal Assistance Center has assembled the following information related to essential services and functions, closing or limiting access to town offices, requiring the use of face masks, dog licensing, access to public records, processing zoning applications, and tax assessment appeals. Please see all Executive Orders at https://governor.vermont.gov/document-types/executive-orders.

For additional information about municipal emergency planning assistance and coordination, please visit our Coronavirus Resources and Recommendations webpage, www.vlct.org/coronavirus.

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Should we close or limit access to our town office?

Whether a town office or town building will remain open due to public health concerns is a decision for each elected official with their own office, the town manager, selectboard, and local health officer to make in consultation with the local emergency management director and the VT Department of Public Health. Town clerks and other independently elected town officers generally set their own office hours and can choose to completely cease or limit their operations until further notice. In MAC’s opinion, since the town manager or selectboard has control over town buildings, they may decide to close them, regardless of what other independently elected officials decide. To date, the Governor has made no statewide declaration closing town office buildings. However, Governor Scott’s Orders, Addenda, and resulting guidance from the VT Agency of Commerce and Community Development (ACCD) provide additional guidance for government functions that can continue in person and safety protocols that must be followed when working in person.

The Secretary of State’s Office is keeping an updated list of town office closures/limitations. To see the list, go to https://sos.vermont.gov/secretary-s-desk/about-the-office/covid-19-response/ and scroll down to the “Municipal Assistance” heading.

Who has the authority to close a town building?

Under the town manager form of government, the town manager has “charge and supervision of all public town buildings . . . unless otherwise provided for by the selectboard.” 24 V.S.A. § 1236(4). Therefore, the town manager may make this decision unless the selectboard has made other arrangements. The selectboard or local public health officer may also issue a health order or emergency health order, respectively, to close a town building in order to prevent, remove, or destroy any public health hazard or to mitigate a significant public health risk. 18 V.S.A. §§ 126(a), 127(a).

Do we have to allow members of the general public to use our restroom(s)?

No. Neither state nor federal law requires restrooms in municipally owned buildings to be open for public use. As with the closing of the town’s buildings, this decision is similarly left to the selectboard or town manager. If use is restricted, then everyone affected should be made aware of this change in policy and steps should be taken to ensure that all restrooms are properly labeled to provide adequate notice.

How do we respond to a public records request if the town office is closed?

The Public Records Act (“PRA”) requires that the custodian of a public record must “promptly” produce a record for copying or inspection. “Promptly” is defined by the PRA to mean “immediately, with little or no delay, and, unless otherwise provided . . . not more than three business days from receipt of a request . . . .” 1 V.S.A. § 318(a)(1). “Business day” means a day that a public agency is open and providing services. If a town office (e.g. clerk’s office) is closed to the public, we do not think the town clerk would be violating the PRA by
not replying within three days since no business days are expiring. However, this is not very responsive to the needs of the public. This approach may also not be practically feasible unless and until there is a federal or state declaration completely shutting down all government buildings. We recommend working with the requestor and suggesting/using alternative means to accommodate their requests, such as emailing digital copies of records.

**How do we keep functioning if the town buildings are closed or have limited hours?**

Just because a town building is closed or limited to the public doesn’t mean that it is inaccessible to all town officers and employees who assist them. If, for example, the town clerk’s office is closed, there are still ways to accomplish critical business. Here are some suggestions:

- Allow office or vault access by appointment only to minimize crowding and provide the opportunity to practice social distancing;
- Make records available online, if possible; or
- Receive requests by phone or email, research and retrieve the documents requested and then email electronic copies or mail hard copies, for a fee.

**How do we keep those who staff and access our town buildings safe?**

VLCT has no health protocol recommendations, other than to follow the CDC and Vermont Department of Health’s recommendations on social distancing, sanitizing, handwashing, etc. Towns must adhere to the VT Agency of Commerce and Community Development’s “Phased Restart Work Safe Guidance” discussed below.

Please see our webpage that has links to all these resources: [https://www.vlct.org/coronavirus](https://www.vlct.org/coronavirus).

**What are “essential services and functions?”**

On Tuesday March 24, Governor Phil Scott issued the 6th addendum to his Declaration of State of Emergency (“Order”) to reduce the spread of COVID-19, available at [https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%206%20TO%20EXECUTIVE%20ORDER%202001-20.pdf](https://governor.vermont.gov/sites/scott/files/documents/ADDENDUM%206%20TO%20EXECUTIVE%20ORDER%202001-20.pdf). The Order lists certain “essential functions and services” that are not restricted by the in-person number and other restrictions, as long as they follow Section 4 procedures in the Order. While the functions in Section 6 of the March 24th Order are not specifically tied to municipal positions or titles, but rather to all businesses in general, the Governor’s Office has confirmed that they apply to all municipalities. Note that the difference between “essential” and “non-essential” functions is no longer a critical distinction. Instead, Towns should be focusing on adhering to the “Phased Restart Work Safe Guidance” discussed below.
Can we open for non-essential services or functions?

Non-essential services and functions are permitted and can only be operated in compliance with the State’s “Phased Restart Work Safe Guidance” as authorized by the Governor’s Executive Order. This guidance is provided by the VT Agency of Commerce and Community Development (ACCD) and has been changing on a weekly basis. ACCD is the State agency tasked with providing guidance on the Governor’s Orders. ACCD has created a “Recovery Resource Center” webpage on COVID-19 at https://accd.vermont.gov/covid-19.

Particularly relevant to municipalities is the ACCD’s “Stay Home Stay Safe Sector Specific Guidance.” This guidance states that municipalities may resume most in-person operations provided they abide by the restrictions set forth in the guidance on the number of employees allowed and adhere to the VT Department of Health (VDH) and the Centers for Disease Control and Prevention (CDC) health and safety guidelines included in the Phased Restart Work Safe Guidance. This document is available at https://accd.vermont.gov/content/stay-home-stay-safe-sector-specific-guidance#"municipalities".

For the most up to date guidance on allowable town operations please visit, https://accd.vermont.gov/news/update-new-work-safe-additions-be-smart-stay-safe-order. While the State has authorized town offices to reopen and operate, this does not mean that towns must do so at their normal operating capacity. The final decision as to whether to open town offices, and under what circumstances, continues to rest with the selectboard or town manager. The conditions to and limitations on reopening a town office may be more restrictive than what the State allows, and the public should be notified of them through broad outreach and signage.

As with any difficult decision that greatly impacts the local community and crosses multiple lines of authority, VLCT recommends that all local government stakeholders (managers, administrators, legislative bodies, elected officials) coordinate with the local emergency management director in consultation with the Local Emergency Management Plan (“LEMP”) and cooperate to consider what town services and functions, beyond essential ones, should operate, while protecting public health. For those with further questions, ACCD has created an online form, accessible at https://bit.ly/covid-vt-business-operations. You can also ask the ACCD a question at https://accd.vermont.gov/covid-19/ask-a-question or email commerce.covid19@vermont.gov.

Who decides what functions or services are to be performed?

The Orders and Addenda regulating town services and functions do not address staffing levels or hours of operations for these services or functions even though the VT Agency of Commerce and Community Development’s guidance addresses maximum numbers of employees that may work together in person. The analysis of who has the authority to make this determination in your community is multi-faceted. For
employees and most appointed officials, this decision will be made by the selectboard; for those towns operating in a manager form of government, this decision will be made by the municipal manager. Elected officials are independent from the control of other town officials, which means that they are empowered to make these decisions. Town of Bennington v. Booth, 101 Vt. 24 (1928). These continued operations and practices must also be conducted in strict adherence to CDC and VDH guidance to ensure recommended social distancing noted above and described in Section 4 of the Order.

Can we impose local face covering/mask requirements?

No, not as of August 1, 2020 which is when Addendum 2 to the Governor’s Amended and Restated Executive Order 01-20 goes into effect. This Executive Order requires all Vermonters to wear masks or facial coverings any time they are in public spaces, indoors or outdoors, where they come into contact with others from outside their households and where it is not possible to maintain a physical distance of six feet. This Executive Order amends Section 7(f) of the Amended and Restated Executive Order regarding face coverings and, in doing so, deletes from its language the ability of selectboards to “enact more strict local requirements regarding mask use than those set forth herein.” In its place, the new iteration of the Executive Order imposes upon towns the requirement to “implement measures notifying customers or clients of the requirement to wear masks or facial coverings, which may include, but shall not be limited to, posting signage stating that masks or cloth facial coverings are required and denial of entry or service to customers or clients who decline to wear masks or facial coverings.” For more information, including printable signage, please visit the VT Agency of Commerce and Community Development’s (ACCD) mask mandate webpage at: https://accd.vermont.gov/covid-19/restart/masks.

Are there exceptions to who must wear a facial covering/mask?

Yes. The Executive Order does not require the use of a facial covering/mask when someone is engaged in a strenuous activity, for any child under the age of 2, by anyone with a medical issue or development challenge that is complicated or irritated by a facial covering/mask, by anyone with difficulty breathing, or by anyone further exempted by the VT Department of Health. If someone refuses to wear a facial covering/mask due to a medical or developmental issue, or difficulty breathing, they are not required to produce documentation, or other evidence, verifying their condition.

How do towns enforce the Governor’s Executive Order?

Towns may deny entry to or service in a municipal building to those who refuse to wear facial coverings/masks. Otherwise, the Governor’s “mask mandate” has no enforcement mechanism.
Our town adopted its own face covering/mask order. What happens to it?

All local face covering/mask orders, regulations, or ordinances currently in place are expressly preempted on August 1, 2020 by Addendum 2 to the Governor’s Executive Order No. 01-20, which imposes a statewide mask mandate. This means that as of the effective date of the Governor’s Executive Order, the authority the Governor previously gave towns to impose face covering/mask mandates per the Amended and Restated Executive Order No. 01-20 has been rescinded and any orders based upon that authority are effectively rendered null and void.

Should we take action to quarantine or isolate individuals with, or suspected to have, COVID-19?

Not without prior consultation with the Commissioner of Vermont Department of Health (VDH). Pursuant to the Governor’s Executive Order (Amended and Restated Executive Order No. 01-20: https://governor.vermont.gov/sites/scott/files/documents/Amended%20and%20Restated%20Executive%20Order%20No.%2001-20.pdf), the Commissioner of VDH oversees, investigates, and coordinates any mitigation efforts for the duration of the Order. All local boards of health must consult with and abide by the recommendations of the Commissioner of VDH prior to taking any action regarding isolation or quarantine of an individual(s). Town health officers must work with and assist VDH as directed by the Commissioner.

Can we close town highways for use as outdoor eating, retail, and public gathering spaces?

Yes. Governor Scott’s Addendum 15 to the Stay Home/Stay Safe Order (Executive Order 01-20) allowed restaurants and bars to offer limited outdoor service, though many do not have the capacity to do so. In response, the VTrans has partnered with the VT Agency of Commerce and Community Development (ACCD) to provide the following toolkit to help restaurants and towns evaluate whether to make streets, rights of way, and other public infrastructure available for outdoor dining, retail, or other public gatherings: https://accd.vermont.gov/covid-19/business/stay-home-stay-safe-sector-specific-guidance#bars-restaurants-food-service.

Selectboards may temporarily close or restrict the use of town highways for these and other purposes. Specifically, 19 V.S.A. §§ 304 and 1110, 23 V.S.A. § 1112, and 24 V.S.A. § 2291(1) authorize selectboards to restrict or close the use of highways or to just set off portions of highways and sidewalks and regulate their use. This authority is frequently used to prevent damage that might otherwise occur to a highway for example during mud season, but is not limited to those seasonal restrictions. Typically, such decisions are accomplished with the passing of a resolution or ordinance at a duly-warned selectboard meeting.

Regardless of the method employed, if travel in the highway right-of-way is to be restricted in any way, notice must be posted in at least two public places in town and signs provided by the Agency of Transportation must be “conspicuously placed” at each end of the portion of the affected highway. 19 V.S.A. § 1110. Selectboards may also place physical barriers in the highway to prevent travel so long as they are clearly visible and
accompanied by clear signage. 23 V.S.A. § 1112. Towns should consult with their insurance providers and attorneys prior to implementing any restrictions.

**Can we impose stricter standards than the State on liquor sales at bars and clubs?**

Yes, selectboards may, pursuant to Governor Scott’s Addendum 3 to the Amended and Restated Executive Order 01-20, prescribe shorter hours for bars and clubs than those set forth in the Rules of the Department of Liquor and Lottery (DLL) for the sale of malt, vinous, spiritous and spirit-based beverages.

**Can we impose stricter standards than the State on the size of gatherings?**

Yes. Addendum 3 to Governor’s Executive Order No. 01-20 authorizes selectboards to enact local requirements regarding gathering size limitations (whether indoor or outdoor) that are more restrictive than those established by the State.

**How are local measures adopted?**

State law authorizes selectboards to adopt, amend, and rescind such rules, orders, and regulations as may be necessary for emergency management purposes so long as they are consistent with those of the Governor or any state agency. 20 V.S.A. § 16. The requirements can be adopted as resolutions (orders) or ordinances (rules) and both must be adopted by majority vote of the selectboard at a duly noticed public meeting. Note that adopting an ordinance also requires adherence to the statutorily prescribed procedures in 24 V.S.A. §§ 1972 et seq.

**How are local measures and Executive Orders enforced?**

If your town adopts a stricter local measure than the State’s, your town’s first and primary method of enforcement should be educating the public of the order’s or ordinance’s requirements and requesting voluntary compliance.

If necessary, enforcement of an order would likely be pursuant to 20 V.S.A. § 40, which states in part: “a person who violates any provision of this chapter or any rule adopted under this chapter shall be fined not more than $1,000.00 for each violation. Each day a violation continues shall be deemed to be a separate violation.” 20 V.S.A. § 40(a). Section 40 also allows the Attorney General to bring an action for injunctive relief (to stop) the violations and compel compliance. We recommend that towns consult with their attorneys before initiating any enforcement action.

On the other hand, adopting an ordinance as opposed to an order will enable your selectboard to individually craft penalties within the statutory limits that would apply to any violation. A municipal ordinance is
designated either as a civil or criminal offense and may carry a fine or penalty of up to $800. A civil ordinance is typically enforced in the Vermont Judicial Bureau, the court with statewide jurisdiction over civil violations. For information on the ordinance adoption process, please review the resources at https://www.vlct.org/resource/ordinance-notice-requirements-info-sheet.

Enforcement of the Governor’s Executive Orders falls under the auspices and is the responsibility of the Office of the Attorney General. According to the Attorney General’s Directive to Law Enforcement on the Enforcement of COVID-19 Emergency Order (https://ago.vermont.gov/wp-content/uploads/2020/04/AGO-EO-Enforcement-Directive-4.3.20.pdf) law enforcement who encounter noncompliant businesses or individuals are directed to provide education and request voluntary compliance. If noncompliance continues, law enforcement is to report those issues and the Attorney General’s Office will work with law enforcement to develop an appropriate response.

**What are best practices for notifying the public of our town office closure or limited hours/access?**

A review of town office closure notifications from around the state reveals some best practices when it comes to informing the general public. These best practices include clearly communicating:

- Whether the town offices are being completely closed or if access will be limited by, for example, appointments only;
- When the temporary closure will take effect and how long it will be expected to last;
- Why the temporary closure is being instituted (to protect the public health by curbing the spread of COVID-19);
- Staff hours and best methods to communicate with staff;
- Which services the town will continue to provide and how those services will be provided (if only essential services will be provided, defining them in detail);
- Whether public bodies will continue to meet and their schedules;
- Postponement or cancellation of any town sponsored events/services;
- Emergency contact information;
- A listing of important local, state, and federal resources:
  - Vermont Department of Health [www.healthvermont.gov](http://www.healthvermont.gov)
  - Center for Disease Control [www.cdc.gov](http://www.cdc.gov)
  - COVID-19 resources and information in Vermont: Dial 2-1-1
- Where to find additional information and future notifications from the town (e.g. town Facebook, Front Porch Forum, or webpage);
- A hopeful word and an appreciation for the public’s patience and understanding; and
- Name, title, and contact information of those responsible for the notification.

Samples of town office closure notification can be found on Vermont’s Municipal LISTSERV, **MuniNet**: [https://list.uvm.edu/cgi-bin/wa?A0=muninet](https://list.uvm.edu/cgi-bin/wa?A0=muninet).
EXTENDING OR WAIVING LICENSE, PERMIT, PROGRAMS, OR PLAN DEADLINES

Can towns provide an extension for any expiring permits and licenses?

Yes. In summary, Section 8(b) of Act 92 states that: 1) towns can extend any deadline that applies to the town itself; 2) towns can extend any license, permit, program, or plan it issues; and 3) any license, permit, program, or plan that expires during the declared state of emergency automatically remains valid for 90 days after the emergency. Consequently, a town, by act of its legislative body (e.g. selectboard, city council, board of trustees, etc.) at a duly warned meeting, can extend or waive any deadline applicable to a license, permit, program or plan it issues beyond the automatic 90-day extension. We recommend the legislative body extend them by a certain amount of time; if the time period ends up being insufficient, the law would allow further extension or waiver of these deadlines during the declared state of emergency. If the legislative body does not affirmatively extend or waive a deadline, note that any expiring license, permit, program, or plan it issues which is due for renewal or review during the emergency will automatically remain valid for 90 days after the date the declared state of emergency ends.

It should be noted that Act 92 doesn’t only apply to zoning related permits and approvals. It applies to “any license, permit, program, or plan issued by a municipal corporation...” This is very broad language and is, on its face, equally as applicable to special event permits, curb cut permits, and dog licenses as it is to zoning permits. However, it does not apply to liquor licenses which are technically issued by the State, as the Act’s extension provisions don’t apply to deadlines related to any State licenses, permits, programs, or plans. To extend municipal deadlines related to State licenses, permits, programs, or plans, municipalities should reach out to applicable State agencies and the Governor’s Office. The Act allows the Governor to authorize State agencies to extend these state related deadlines for up to 90 days after the date the declared emergency ends.

DOG LICENSING AND RABIES CLINICS

The deadline for licensing dogs is April 1. How do we issue licenses during this crisis?

Towns that are closing their offices, limiting their hours of operation, or changing the method by which people are licensing their dogs (e.g. mail only, drop box, etc.), will need to quickly communicate that information to their residents. Many towns are asking their residents to mail in rabies vaccination certificates accompanied by the requisite licensing fee paid by check addressed to the town office by April 1 and mailing the certificates and tags to the addresses provided. Any license applications or renewals received by the April 1 deadline should be considered timely even if they’re processed at a later date.
Can the deadline for licensing dogs be waived or extended beyond April 1?

Yes. Section 8(b) of Act 92 (see above) allows towns to “extend or waive deadlines applicable to licenses, permits, programs, or plans issued by a municipal corporation.” Additionally, during the state of emergency, “Any expiring license, permit, program, or plan issued by a municipal corporation that is due to the municipal corporation for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.” Consequently, a town, by act of its legislative body (e.g. selectboard, city council, board of trustees, etc.) at a duly warned meeting, can extend the deadline for dog licenses.

Can we waive the statutory penalties imposed for missing licensing deadlines?

Yes. Although the penalties for failing to license dogs on time is imposed by State law, the funds are retained by the town and, consequently, may be waived by the selectboard. If the selectboard intends to waive licensing penalties, it should include a clear expiration date of such waiver which can be extended, if necessary.

Our town holds a free rabies clinic every year. Can we cancel/postpone it?

Yes. There is no legal requirement that towns hold a rabies clinic. Historically, clinics have been held by towns and veterinarians who volunteer their time as a public health service to help reduce the spread of canine rabies. We have been informed that some veterinarians are declining to keep appointments of all types, including the administration of routine vaccinations, until the spread of COVID-19 mitigates. This will have the unfortunate, unintended consequence that many owners will lack the requisite vaccination certificate to license their dogs.

ZONING AND PERMITTING

What happens if we cannot run our zoning department and, therefore, cannot process applications for development review?

State law provides that zoning administrators have 30 days to act on a complete application by either issuing a decision or making a referral to an appropriate municipal panel (e.g. planning commission or zoning board of adjustment/development review board). 24 V.S.A. § 4448(d). Failure to act in the time prescribed by law could render an application “deemed approved.” Additionally, the law requires appropriate municipal panels to set a date and place for hearings for all zoning administrator appeals to begin within 60 days from the date the appeal notice is filed. 24 V.S.A. § 4468. Hence, the primary question that arises when a town closes its zoning office is whether this will result in deemed approval of zoning applications received during this time.

Note that deemed approval is not automatic. It is an equitable remedy which must be asserted in the Environmental Division of Superior Court to address unreasonable delays in the permitting process. It does not
mean that an applicant could otherwise begin development without a permit issued by the zoning administrator. Furthermore, we think Act 92 (see above) allows the zoning administrator to extend the (30 days) deadline to act on a complete application.

MAC’s opinion is that if the town office is closed, then applications cannot be received and processed by the zoning administrator in order to ascertain whether they are complete. Therefore, the remedy of deemed approval would be inapplicable to applications received during an office closure. This opinion is consistent with Environmental Division holdings that this remedy does not apply to incomplete applications. See In re McLaughlin, Docket No.42-2-05 Vtec, slip op. at 8 (Vt. Envtl. Ct., Mar. 13, 2006), Grand View Site Plan Application, Docket No. 161-08-05 Vtec.

Despite that opinion, we recommend that zoning administrators continue to receive and process applications and even act on them, remotely if need be, if at all possible. This includes referring applications to the appropriate municipal panel for hearings.

Can we postpone public hearings required to be held to adopt/amend/repeal town plans and zoning bylaws?

Yes. Section 8 of Act 92 explicitly allows towns to extend these deadlines indefinitely during the declared state of emergency. Specifically, the temporary law states, “(d)uring a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a municipal corporation shall be permitted to extend any deadline applicable to municipal corporations, provided that the deadline does not relate to a State license, permit, program, or plan subject to subsection (a) of this section.” An example of such a deadline includes the timeframe by which a selectboard must hold a public hearing on a proposed town plan or amendment. State law ordinarily would require a selectboard to hold a public hearing on a proposed town plan or amendment not less than 30 days, nor more than 120 days from the date it is submitted by the planning commission. We do not recommend holding a public hearing during the public health emergency amid the Order’s and guidance’s restrictions on public gatherings. Instead, we recommend that the legislative body, at a duly warned meeting, extend the hearing deadlines by a certain amount of time. If the time period ends up being insufficient, the law allows further extension or waiver of these deadlines during the declared state of emergency.

This provision allows towns to hold off on warning hearings to adopt, amend, or repeal a town plan or bylaw amendments without running afoul of statutory deadlines for noncompliance. However, if action is taken during the declared state of emergency, it appears as though the regular notice requirements (e.g. 24 V.S.A. § 4444) will still apply.

Can the appropriate municipal panel cancel or postpone hearings for development review that have been warned?

Yes. The appropriate municipal panel has the authority to control its meeting schedule and postpone any hearings until the threat of the coronavirus passes. Once an application has been referred to it by the zoning
administrator, the appropriate municipal panel can hold off warning the hearing unless your local land use regulations require otherwise. Other than appeals of the zoning administrator, there is no statutorily prescribed timeframe for when a hearing for development review must be held. If a hearing has already been warned but not yet opened, the appropriate municipal panel can cancel it as a precaution and to protect public health. When the threat passes and the hearings are resumed, they must be warned anew.

We recommend notifying all interested parties in the same manner they were notified of the hearing, and in more ways if possible. If a hearing has been continued to some date in the future and the continued hearing is canceled, the hearing must be warned anew. For appeals of zoning administrator decisions, the appropriate municipal panel can always warn (or extend under Section 8(b) of Act 92) the hearing to occur within the prescribed 60-day timeframe, only to meet at that time by electronic means, open the hearing, and continue it to a date, time, and place certain. Please see “Open Meeting Law and COVID-19 Response FAQs” regarding conducting electronic meetings at: https://www.vlct.org/resource/open-meeting-law-and-covid-19-response-faqs.

What if the appropriate municipal panel cannot issue hearing decisions in a timely manner?

Similarly, as with applications before the zoning administrator, an appropriate municipal panel must issue a decision on an application within 45 days after the close of a hearing or an application may be deemed approved. 24 V.S.A. §4464(b)(1). Since the 45-day deadline for appropriate municipal panels only applies to when a hearing is closed, the deemed approval clock will not start ticking until a hearing is held. In this instance, it would be wise for the town to postpone (or extend under Section 8(b) of Act 92) all hearings until the threat of coronavirus has passed.

The town should provide widespread notification of scheduling decisions and let people know that permit applications will not be considered received or reviewed for completeness until the office is reopened, at which time they will be processed as expeditiously as possible.

TAX ASSESSMENT APPEALS

Do we have to conduct site inspections?

The law on tax assessment appeals ordinarily requires that each property which is the subject of an appeal be inspected by a committee of not less than three members of the Board of Civil Authority (BCA) and that failure of an appellant to allow an inspection will result in the appeal being deemed withdrawn. Alternatively, failure of a BCA to conduct an inspection ordinarily would result in reinstating the previous year’s grand list value. 32 V.S.A. § 4404(c).
Conducting site inspections at this time, however, poses significant health risks to those appealing, those conducting the inspections, and the public at large. The State, in recognition of these dangers, passed a temporary law, Act 106, which lifts the requirement for the BCA to physically inspect any property for an appeal held during the declared State of Emergency. Specifically, the law states that during this time “a Board of Civil Authority shall not be required to physically inspect any property that is the subject of an appeal.”

Do we still have to submit an inspection report?
No. A committee of not less than three BCA members that inspected the subject property would ordinarily have to report back to the full BCA within 30 days from the hearing on the appeal, but if there is no inspection, there is nothing to report.

Are there any circumstances under which a BCA would have to conduct a site inspection?
Yes. If the appellant (the taxpayer appealing their assessment) requests in writing that their property be inspected, then the BCA must conduct the inspection through electronic means.

What qualifies as “electronic means”? 
Act 106 defines “electronic means” as “the transmittal of video or photographic evidence by the appellant at the direction of the Board members or hearing officer conducting the inspection.” If the appellant does not facilitate the inspection through electronic means, then the appeal must be deemed withdrawn.

Can we conduct a physical inspection if we want to?
Yes. Act 106 states that a BCA isn’t required to physically inspect properties, not that it can’t if it so chooses. This law was passed so that the BCA doesn’t have to inspect properties and not doing so is the preferred course of action. If, however, a BCA wants to physically inspect a property, this law doesn’t prevent it from doing so. And, although we would caution against it, we would certainly recommend that any physical inspection be conducted in accordance with Department of Health and CDC guidelines. A refusal by an appellant to allow for an inspection, whether physical or by electronic means, would result in their appeal being deemed withdrawn.