

HANDBOOK FOR VERMONT MUNICIPAL CLERKS

2nd Edition

Duties and Responsibilities

Vermont League of Cities and Towns

2000

The **Vermont League of Cities and Towns** (VLCT) was founded in 1967 as a nonprofit, nonpartisan organization to serve the needs and interests of Vermont's cities and towns and the local officials selected and appointed to conduct their business. League staff furnish municipal officials with the information and resources they need to provide quality service to their citizens. Our Group Services Program provides comprehensive insurance coverage to municipalities, and the VLCT Law Center and Technical Services Center consult on a wide range of municipal issues. VLCT staff also work with Vermont's municipalities to promote legislation strengthening local government.

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89 Main Street, Suite 4
Montpelier, VT 05602-2948
(802) 229-9111
(800) 649-7915
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PROLOGUE

As part of a series of publications to assist municipal officials, the Vermont League of Cities and Towns, with the invaluable assistance of town clerks, has prepared this updated handbook for municipal clerks. This source of information should be especially useful to newly elected clerks and newly appointed assistants, while serving as a reference for experienced officers.

Many thanks to the following municipal clerks who provided us with draft revisions:

Priscilla Aldrich, Burke
Susan Ann Arnebold, Orwell
Cora Baker, Highgate
Marie Betterly, Stowe
Gail Fallar, Tinmouth

Patricia McCoy, Poultney
Barbara Oles, Guilford
Georgette Wolf-Ludwig, Fairlee
Monica Yeamans, Holland

Thank you as well to Mary Jane Grace of the Division of Property Valuation and Review for her assistance.

This handbook is not intended to be a substitute for the Vermont Statutes Annotated, but it should prove to be a valuable starting point. Additional sources of information are provided throughout the text and, as always, you may call the Vermont League of Cities and Towns toll-free at (800) 649-7915.

Reasonable efforts have been made to insure that the information provided in this publication is accurate and complete. However, the Vermont League of Cities and Towns makes no warranty, express or implied, or representation that such information is suitable for any particular purpose or may be relied upon for any specific act, undertaking or course of conduct.

Priscilla B. Fox, Esq.
Elizabeth A. Turner, Esq.
VLCT Municipal Law Center
May 2000

I. THE MUNICIPAL CLERK

A. THE ROLE OF THE MUNICIPAL CLERK

In many Vermont municipalities the municipal clerk is the most visible elected official and as such is expected to be informed about all aspects of town business from animals to zoning. Briefly, the municipal clerk is required by law to be the receiver and recorder of the town's archives. The clerk records deeds related to real estate and private property transactions and files vital statistics information records relating to town business. Proceedings of the annual and special town meetings are recorded and filed by the municipal clerk. 24 V.S.A. §§ 1151–1179. These specific duties and responsibilities will be discussed in detail in appropriate sections of this handbook. The responsibilities apply equally to the municipal clerk elected at town meeting and to a clerk appointed by the selectboard to fill a vacancy in the office. This first chapter looks at the office of the municipal clerk in general.

While many of the municipal clerk's duties and responsibilities are clearly defined in state statutes, others are a result of custom, such as receiving telephone inquiries dealing with anything from the next selectboard meeting to landfill hours. While a municipal clerk is not legally required to perform such extra duties, it is a good idea to be courteous and helpful. A municipal clerk will probably hear many complaints and should make an effort to listen sympathetically. For example, if a citizen has a complaint about the grading of a gravel road, the clerk could notify the road commission or pass the information on to the selectboard and/or town manager.

B. ELECTION

A municipal clerk is chosen from among the legally qualified voters of a town at the annual meeting on the first Tuesday in March (17 V.S.A. § 2640(a)), unless otherwise provided by law as in the case of a charter (17 V.S.A. § 2646(2)). In towns not using the Australian ballot system, the municipal clerk need *not* be elected by paper ballot as is required for some officers. In other words voting for the municipal clerk can be carried out by voice, show of hands, or by dividing the house. If the vote is questionable, seven or more voters may require a vote by paper ballot, unless the town has provided some other procedure. 17 V.S.A. § 2658.

C. TERM OF OFFICE

Vermont law stipulates that a clerk is elected for a term of one year *unless* a town votes for a three-year term. 17 V.S.A. § 2646 (2). Once a three-year term has been voted, it remains in effect until rescinded by a majority of legal voters present and voting at an annual meeting properly warned for that purpose. The commencement of the three-year term depends on when in the town meeting it is considered and the wording of the article. The article must be separate from the actual election of the person. For example, if a three-year term is approved by the voters on Monday night prior to the election of officers by Australian ballot on Tuesday, then the three-year term applies immediately. If

it is approved in Article 2 on Tuesday's warning where the Australian ballot is not used and the election of officers is Article 3 or later, the three-year term also commences immediately. Otherwise or unless the article specifically says, "To see if the office of municipal clerk shall have a three-year term beginning in March [next year's date]," the three-year term begins in the next year.

D. INCOMPATIBLE OFFICES

A municipal clerk, his or her spouse, "or any person assisting" the clerk may not be the town auditor. A town manager may not hold any elective office in the town; therefore, the clerk cannot be the town manager. 17 V.S.A. § 2647.

In towns using the Australian ballot system, a candidate for the office of municipal clerk, or municipal clerk/treasurer (someone running for the offices of town clerk and town treasurer at the same time) *is* legally allowed to serve as an election official. In towns where voting is done by the non-Australian ballot system, municipal clerks must disqualify themselves from serving as an election official during any election for which they have been nominated. 17 V.S.A. § 2456.

E. OATH OF OFFICE

The municipal clerk must take and sign an oath of office after having been elected to a new term. 24 V.S.A. § 831. The form of the oath is as follows:

I, _____, do solemnly swear that I will faithfully execute the office of town clerk, within and for said town, and will therein do equal right and justice to all men in the best judgment and abilities according to law. I also solemnly swear that I will support the Constitution of the State of Vermont, and of the United States. So help me God.

In the administration of the oath, the word "affirm" may be substituted for "swear" and the words "under the pains and penalties of perjury" may be substituted for "So help you God." 12 V.S.A. § 5851. A record of the oath must be made by the clerk in the town proceedings book. 24 V.S.A. § 831. In addition, a copy of the clerk's oath must be filed with the county clerk. 24 V.S.A. § 1151.

F. CERTIFICATE OF ELECTION

Within six days after taking office, the municipal clerk must deposit with the clerk of the county a certificate of election or appointment, signed by the moderator of the town meeting at which he or she was elected by open meeting, by the chair of the board of civil authority if the election was by Australian ballot, or by the selectboard members if appointed. 24 V.S.A. § 1151. This certificate, Form No. 5, is available at the county clerk's office. Many county clerks automatically mail the forms to towns around election time.

The form is divided into three sections. The first section must be completed for municipal clerks who are elected. That section is signed by the town moderator. The second section must be filled out for clerks who are appointed. That section is signed by the selectboard. The last section is a copy of the oath and requires the signature of both the clerk and the person administering the oath—probably a justice of the peace or notary public. 12 V.S.A. § 5852.

G. OFFICIAL BOND

Before a person assumes the office of municipal clerk, the selectboard shall require a bond conditioned for the faithful performance of his or her duties. 24 V.S.A. § 832. The sums and sureties of this bond are prescribed and approved by the selectboard and are designed to insure the town against loss of any money entrusted to the clerk.

Each officer should be bonded according to the amount the town might lose through mishandling of money by that particular officer. If the selectboard deems that a bond is insufficient, additional bond may be required by a written order. If the person so ordered does not comply within ten days, the office shall be vacant and the selectboard must appoint another person as clerk until an election is held. 24 V.S.A. §§ 932; 961–962. A bond is not valid if it is signed as surety by another officer of the same municipality. 24 V.S.A. § 832.

The municipality pays for bonds required of town officers. 24 V.S.A. § 835. When a bond is approved, the selectboard files it in the office of the municipal clerk, who records it in a book kept for this purpose. 24 V.S.A. § 833.

H. NEGLIGENCE OF DUTY, WRONGFUL ACTS AND LAWSUITS

Town officials may be subject to a civil fine of not more than \$100 for failure to perform their duties. 24 V.S.A. § 902. In addition, town, village, and fire or school district officers who willfully neglect to perform their duties shall, if successfully prosecuted under criminal statutes, be imprisoned not more than one year or fined not more than \$1,000 or both. 13 V.S.A. § 3006. A more specific statute in terms of a municipal clerk indicates that a municipal clerk who neglects to keep in his or her office the indices required by law shall be fined \$20 for each six months of neglect. A town which neglects to correct the deficient index situation shall be fined \$50 for each six months of neglect. 24 V.S.A. § 1162.

The town is liable and must make compensation for loss or pecuniary damage which may accrue to a person as a result of neglect or default of a municipal clerk in carrying out his or her duties. 24 V.S.A. § 834. However, that is not the case if criminal charges are brought against a clerk for such things as bribery or embezzlement.

Legal action against a municipal clerk or town to recover damages for neglect of duty by the municipal clerk in relation to a deed, execution or other instrument left for record must begin within six years. 12 V.S.A. § 515. Any action by or against a town officer is

brought in the name of the town. The municipality shall assume all reasonable legal fees resulting from court action incurred by said officer when acting in the performance of his or her duties and done without malicious intent. 24 V.S.A. § 901.

I. VACANCY IN OFFICE

If a municipal clerk is elected and the office becomes vacant due to resignation, death, removal from office, insanity, removal from town or lack of bond, the vacancy must be filled “forthwith” by the selectboard. The person appointed to fill the vacancy serves until an election is held. An election may occur at a special meeting called for that purpose or it may occur at the next annual meeting. The person appointed as replacement must fulfill the requirement of being a legally qualified voter in the town. The appointment should be filed and recorded in the municipal clerk’s office. 24 V.S.A. §§ 961–963.

The selectboard may call a special meeting if it wishes to have the town elect a replacement to the position, or it may be requested by petition of five percent of the legal voters. 17 V.S.A. § 2643(a). It is possible that neither the selectboard nor the voters will call a special meeting, in which case the appointment will be valid until the next annual town meeting. For example, if one or two years still remain of a three-year term of office, the person elected at the next town meeting will serve the remaining portion of the original three-year term.

J. COMPENSATION

In the past, clerks were compensated by the various fees received for performing their duties. Unless otherwise provided for, such fees belonged to the clerk. 32 V.S.A. § 1401. However, since 1980, towns have had the authority to vote a clerk’s salary in lieu of, or in addition to, those fees. 32 V.S.A. § 1224. When a town votes a salary in lieu of fees, the fees are still collected by the clerk but are turned over to the town treasurer and credited to the town’s general fund on at least a quarterly basis. There seems to be a tendency toward salary in lieu of fees at this time.

K. SOCIAL SECURITY WITHHOLDINGS

Social Security must be withheld from a municipal clerk’s fees as well as from his or her regular salary. If you have questions concerning Social Security withholding requirements *for municipal employees and officers only*, call the Retirement and Social Security Division of the Vermont State Treasurer’s Office at (800) 642-3191.

L. REPORTING FEES RECEIVED

Within 30 days after the completion of a town’s fiscal year, each municipal clerk must disclose to the public the total amount of fees received as part of his or her compensation during the preceding fiscal year. 24 V.S.A. § 1179.

M. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

Participation in the Vermont Municipal Employees' Retirement System (VMERS) is required for all municipalities that:

- as of June 30, 1975, did not have in effect a retirement plan other than Social Security; or
- had voted prior to June 30, 1975 *not to participate* in VMERS.

Elected or appointed officials and employees of all participating municipalities must participate in VMERS if they work 24 or more hours per week and 1,040 or more hours in a year. The same is true for school district employees who work those hours during the school year. 24 V.S.A. § 5051 (10).

There are several different VMERS plans to choose from. Contributions and benefits vary, but the plan contribution is always calculated as a percentage of the official's or employee's gross compensation. *Fees are considered compensation!*

For more information concerning VMERS, contact the Vermont State Treasurer's Office at (802) 828-2305, or toll-free at (800) 642-3191. Another resource is the VMERS Board of Trustees' informational booklet issued in 1999.

N. HEALTH INSURANCE

Municipal clerks who work more than 17½ hours a week may be eligible for health, life or disability insurance coverage through the Vermont League of Cities and Towns Health Trust, if the municipality they work for is a member of the Trust. For more information, call the Vermont League of Cities and Towns at (802) 229-9111 or (800) 649-7915, or Blue Cross/Blue Shield of Vermont at (802) 223-6131.

O. OFFICE HOURS AND ACCESS TO RECORDS

There are no state statutes mandating the office hours of a Vermont municipal clerk. The clerk, therefore, has the authority to set these hours, which are usually determined by the amount of work to be done. In smaller municipalities the clerk may not even have regular office hours or a conventional office. However, the files and records maintained by the municipal clerk must be available for public inspection, upon proper request, at all reasonable hours. 24 V.S.A. § 1165.

Each clerk must be familiar with the "Access to Public Records" law found in 1 V.S.A. §§ 315-320. Any person has a right to inspect public records and to request copies of them, sometimes for a fee and sometimes for the actual cost of the copy. Subsection 317 of this law defines public agency and public record. It should be read carefully and thoroughly, especially as public records are defined in the negative (i.e., they are defined as everything *except* a long list of "non-public" records). It is sometimes helpful to read the annotations at the end of the particular statute in order to get an idea of how the court has interpreted prior cases and how that might apply to the situation at hand.

A person who is denied access to public records may take the case to superior court, where the court will review the request *de novo*. If the complainant prevails substantially, the court may assess attorney fees and litigation costs against the town.

P. ASSISTANT TOWN CLERKS

After a municipal clerk is elected, he or she *must* appoint one or more assistant town clerk(s). 24 V.S.A. § 1170. The clerk may also revoke the appointment. All such appointments and revocations must be recorded in the office of the municipal clerk. The law does not specify that the assistant be a legally qualified voter of the town.

In a procedure similar to that required of the municipal clerk, a record of appointment for the assistant clerk(s) must be deposited with the county clerk. State Form No. 15 is available from the county clerk for this purpose. It is to be certified by the municipal clerk and the magistrate who administered the oath. The assistant clerk must also sign the oath. 24 V.S.A. § 1172.

An assistant town clerk, when properly sworn, is authorized to perform the recording and filing duties of the municipal clerk and to issue licenses and certified copies of records. A municipal clerk is responsible for the official acts of any assistant appointed by him or her. In the absence, death, or disability of the municipal clerk, the assistant may perform all other duties of the municipal clerk. If the municipal clerk dies, the assistant continues to perform all duties until the selectboard appoints a successor. 24 V.S.A. §§ 963, 1171.

Compensation for assistant clerks is set by the town (or, failing that, the selectboard) and is paid by the town. 24 V.S.A. §§ 932-933.

An assistant town clerk, his or her spouse, or any person assisting him or her in the discharge of official duties may not be a town auditor. 17 V.S.A. § 2647. In addition, when the assistant town clerk keeps records of orders drawn by the selectboard, he or she may not also be the town treasurer or the spouse of the town treasurer, or any person acting in the capacity of clerk for the town treasurer. 24 V.S.A. § 1622.

Q. MUNICIPAL CLERK AS TREASURER

There is nothing in the law which prohibits a person from being both municipal clerk and treasurer. In fact it is not uncommon to find one person performing both functions in many Vermont towns, although he or she must run for those two offices separately. 17 V.S.A. § 2456. In 1999, this was the case in almost 170 Vermont municipalities. Often the officer is referred to as the “clerk-treasurer.” A chapter on the duties and responsibilities of a town treasurer can be found in the *Handbook for Town Officers, 2nd edition*, published in 1999 by the Vermont League of Cities and Towns.

Every year, on or before July 1, the municipal clerk must submit the name of the town treasurer to the state treasurer. 24 V.S.A. § 1166. A treasurer is also authorized to

appoint an assistant and to revoke that appointment. The appointment or revocation of appointment of the assistant treasurer shall be recorded in the office of the municipal clerk. If the treasurer fails to appoint an assistant, after written request to do so from the selectboard, the board may then make the appointment itself. The assistant treasurer may perform the duties of treasurer in the case of absence or disability of the treasurer. 24 V.S.A. § 1573.

R. RELATIONSHIP WITH THE SELECTBOARD

The duties and responsibilities of a municipal clerk are defined by statutory law. As long as the municipal clerk maintains his or her records in a lawful manner, the selectboard does not have the power to require the municipal clerk to conform to its ideas or methods of record keeping. 24 V.S.A. § 872, Annotation 13. But if a municipal clerk wants to employ a card index system as opposed to the general index (24 V.S.A. § 1161), he or she must have the consent and approval of the selectboard or alderboard (24 V.S.A. § 1153).

Following town meeting, the selectboard shall hold an organizational meeting and elect a chairperson and, if so voted, a clerk from among its number. A certificate of such election must be filed with the municipal clerk. During the organizational meeting, the selectboard must also appoint the following municipal officers: three fence viewers; one or more inspectors of lumber, shingles and wood; a weigher of coal; a pound keeper, and a tree warden. Such appointments must be certified to and recorded by the municipal clerk. 24 V.S.A. § 871.

S. BOARD OF CIVIL AUTHORITY

A municipal clerk, whether of a town, city or village, is a voting member of the board of civil authority, along with the justices and selectboard, mayor and alderboard, or village trustees, respectively. 17 V.S.A. § 2103(5); 24 V.S.A. § 801. The municipal clerk is the clerk of the board. Meetings of the board may be called by the clerk or by a selectboard member by posting notice and providing written notice to the members of the board. 24 V.S.A. § 801.

Several statutes say how many members of the board must be present in order to conduct business:

- The act of a majority of the board present at the meeting shall be treated as an act of the board, except when the board is dealing with election issues. 17 V.S.A. § 2103(5); 24 V.S.A. § 801.
- Except as otherwise provided in this title, a majority of the members of the board of civil authority shall constitute a quorum. 17 V.S.A. § 2103 (5).
- Those members of the board of civil authority present at a polling place shall constitute a quorum for the transaction of business relating to the conduct of the election. 17 V.S.A. § 2451.

When applied to the two separate functions of the board of civil authority, these statutes appear to mean that when the board is hearing tax appeals, the concurrence of a majority of the members present is considered an action by the board. For instance, if four members of a nine-member board are present, and three of them vote in favor of a motion, that motion has the force of an act by the entire board.

When dealing with election issues, however, two other rules apply:

1. When the board meets to purge or add to the checklist, a majority of the members must be present to form a quorum. For instance, if a board consists of nine members, five of them must be present to conduct business. Presumably, under the general rule in 1 V.S.A. § 174, all five members present would have to concur in order to take action.
2. If an election is in progress and the polls are open, a single member of the board who is present at the polling place constitutes a quorum and can make decisions on behalf of the entire board regarding conduct of the election and qualifications and registration of voters.

As part of its elections authority, the board of civil authority also administers the voter's oath, conducts elections and performs recounts within its political subdivision 17 V.S.A. §§ 2124, 2451, 2685.

The municipal clerk shall be the presiding officer at the polling place, unless unavailable or the town votes otherwise. If there is more than one polling place, the board shall appoint a voter of the town to serve in that capacity for each additional site. 17 V.S.A. §§ 2451-2453.

For discussion of the tax appeal responsibility of the board of civil authority and the clerk's related duties, see Chapter XI, section F of this handbook. For a more in-depth discussion of the board's functions, see Chapter 4 of the *Handbook for Vermont Selectboards, 2nd edition*.

T. BOARD OF TAX ABATEMENT

The municipal clerk is a voting member of the board of tax abatement (24 V.S.A. § 1533) along with the town treasurer, the selectpersons, the justices of the peace and the listers. For the members of the board in cities and villages, see 24 V.S.A. § 1537.

Any taxpayer has a right to request a hearing for tax abatement. Meetings of the board are noticed as board of civil authority meetings, with the additional requirement that at least one lister must get personal notice. 24 V.S.A. §§ 801, 1534.

The board may act in one of two ways:

1. A majority of a quorum of the board may act for the board. For instance, if six members of a ten-member board are present, four of them must concur in a decision;
or

2. If the town treasurer, a majority of the board of listers and a majority of the selectboard are present, that group has authority to act for the board. For instance, if seven members are present—the treasurer plus four of five selectboard members plus two of three listers—concurrence by four of them constitutes an act by the board.

The board has authority to abate taxes *only* for those reasons listed in the statutes. It may abate in whole or in part taxes, interest and penalties, or it may deny the request. In any case, it must “state in detail in writing the reasons for its decision.” 24 V.S.A. § 1535 (c). A record of the decision must be filed with the town clerk and a certified copy forwarded to the treasurer and to the collector of taxes. Note that if the abatement is of a use change tax, it must be recorded in the municipal land records. 24 V.S.A. § 1536.

II. FEES

A list of municipal clerk’s fees has been compiled below. It is not intended to be a description of the various instruments, documents, permits, and so on; it is simply a fee chart. The specifics will be discussed in appropriate sections of this handbook. These fees are subject to review by the General Assembly, so clerks should check current statutes to determine if the fees have been changed since the revision of this handbook (June 2000).

FEE DESCRIPTION	CITATION	TOTAL CHARGE	MUNICIPALITY RETAINS
Act 250 Disclosure	32 V.S.A. § 1671(a)(6)	\$7.00/page	All
Alcoholic Beverages	7 V.S.A. §§ 231, 233		
First class		\$100.00	\$5.00
Second class		\$50.00	\$5.00
Attachment, Discharge of	12 V.S.A. § 3293(d)	\$4.00	All
Big Game Report	10 V.S.A. Appendix 2(b)	\$1.00 (paid by commissioner)	All
Birth Certificate			
Certified copy	32 V.S.A. § 1712 (5)	\$7.00	All
Completed or corrected	32 V.S.A. § 1712 (3)	\$2.00 (paid by town) ¹	All
Burial Certificate	32 V.S.A. § 1714	\$5.00	All
To entomb or move body	32 V.S.A. § 1714	\$1.00	All
Certificate of Fact to Commissioner of Health	32 V.S.A. § 1712 (4)	\$1.00 (paid by town) ¹	All
Checklists	32 V.S.A. § 1671 (a)(7)	at cost ²	All
Death Certificate			
Certified copy	32 V.S.A. § 1712 (5)	\$7.00	All
Corrected	32 V.S.A. § 1712 (3)	\$2.00 (paid by town) ¹	All
Dog/Wolf Hybrid License	20 V.S.A. §§ 3581–3582		
Neutered		\$4.00	All
Not neutered		\$8.00	All
Late fee		+ 50% of basic fee	All
Surcharge for town (optional)		up to \$10.00	All

FEE DESCRIPTION	CITATION	TOTAL CHARGE	MUNICIPALITY RETAINS
Surcharge for state		\$1.00	None
New dogs/puppies after 4/1		50% of usual fee	All
Breeding dogs	20 V.S.A. § 3583	See statute	All
Kennel license	20 V.S.A. § 3681	See statute	All
Examination of Town Records			
By clerk	32 V.S.A. § 1671 (a)(3)	\$5.00/hour, \$25/day max	All
By others	32 V.S.A. § 1671 (a)(4)	\$2.00/hour	All
Grand List	32 V.S.A. § 1671 (a)(7)	at cost	All
Green Mountain Passport	31 V.S.A. § 1002 (b)	\$2.00	All
Hunting/Fishing License	10 V.S.A. § 4254 (e)(9)	see 10 V.S.A. § 4255	\$1.00
Hunting License, replace- ment for lost license	10 V.S.A. § 4261 (a)	\$5.00	All
Lien, Property Tax	32 V.S.A. § 5078	\$12.00 (paid by town) ¹	\$6.00, clerk \$6.00, CDT
Lien, Recording	32 V.S.A. § 1671 (a)(6)	\$7.00/page	All
Lumber Lien & Registered Mark	9 V.S.A. §§ 2013, 2014	\$6.00	All
Marriage Certificate			
Certified	32 V.S.A. § 1712 (5)	\$7.00	All
Corrected	32 V.S.A. § 1712 (3)	\$2.00 (paid by town) ¹	All
Marriage License			
Copy	32 V.S.A. § 1712 (2)	\$1.00 (paid by town) ¹	All
Issuance	32 V.S.A. § 1712 (1)	\$20.00	\$5.00
Military Service Record	24 V.S.A. § 1175	\$0.50 (paid by town) ¹	All
Minutes	32 V.S.A. § 1671 (a)(7)	at cost	All
Mortgage			
Complaint to foreclose	32 V.S.A. § 1671 (a)(2)	\$6.00/page	All
Trust deed file	32 V.S.A. § 1671 (a)(1)	\$10.00	All
Motor Vehicle Registra- tion	23 V.S.A. § 6	see specific vehicle type	\$2.00
Name, failure to provide legible	32 V.S.A. § 1405	\$2.00	All
Name Change (regarding real estate)	27 V.S.A. § 350; 32 V.S.A. § 1671 (a)(6)	\$7.00/page	All
Posted Land, recording	10 V.S.A. § 5201 (c)	\$5.00	All
Property Transfer Tax	32 V.S.A. § 9606 (d)	\$7.00	All
Public Document, certi- fied copy	32 V.S.A. § 1671 (a)(6)	\$7.00/page	All
Public Record, certified copy	32 V.S.A. § 1671 (a)(6)	\$7.00/page	All
Record/File any Public Record	32 V.S.A. § 1671 (a)(6)	\$7.00/page ³	All
Survey Plats	32 V.S.A. § 1671 (a)(8)		
11x17 inch		\$6.00/sheet	All
18x24 inch		\$8.00/sheet	All

FEE DESCRIPTION	CITATION	TOTAL CHARGE	MUNICIPALITY RETAINS
24x36 inch		\$10.00/sheet	All
Tobacco License	7 V.S.A. § 1002 (d)	\$10.00	\$5.00
Trailer Parks	24 V.S.A. § 2232 (4)	set by town	All
Trust Mortgages	32 V.S.A. § 1671 (a)(1); 24 V.S.A. § 1155	\$10.00	All
U.C.C. (certain collateral defined in 9A V.S.A. § 9-401)	see 9A V.S.A. § 9-403(5)		All
Uncertified Copies of Recorded and Filed Documents	32 V.S.A. § 1671 (a)(7)	\$1.00/page (\$2.00 min)	All
Veterans, Records for VA Benefits Determination	14 V.S.A. § 3116	no charge	
Vital Statistics	32 V.S.A. § 1712 (5)	\$7.00	All
Waterfowl Stamp	10 V.S.A. § 4277 (d)	\$5.00	\$1.00

- 1 “Paid by town” does not apply where clerk receives salary in lieu of fees.
- 2 Upon request, one checklist copy free to the chair of each political party in town. 17 V.S.A. § 2141.
- 3 **Effective July 1, 2000**, the municipal surcharge on recording fees and certain copies was repealed and replaced by a “restoration reserve fund,” which may be created by the legislative body. The fund consists of a portion of the statutory recording fees – not less than 50¢ and not more than \$1.00 per page – established under 32 V.S.A. § 1671 (a)(1) and (a)(6).

See statute referenced for further information. Municipal clerks may require fees for all filing, recording, and copying to be paid in advance. 32 V.S.A. § 1671 (5). A schedule of all fees shall be posted in the town clerk’s office. 32 V.S.A. § 1671(b).

According to the Public Records Division of the Vermont Department of Buildings and General Services:

- No fee may be charged for termination statements. 9A V.S.A. § 9-404(3).
- Utility pole permit fees are \$7.00. 32 V.S.A. § 1671(a)(6); 19 V.S.A. § 1111(l).

If you have any questions concerning a fee, call the Public Records Division in Middlesex at (802) 828-1005 or the Vermont League of Cities and Towns’ Municipal Law Center at (800) 649-7915.

III. OATHS

A. CLERK'S CERTIFICATE OF ELECTION AND OATH

1. In his or her county, a municipal clerk may administer oaths in all cases where an oath is required. 24 V.S.A. § 1160.
2. The clerk, selectboard, constables, listers, grand jurors, and fence viewers of a town must be sworn before entering upon the duties of their offices. 24 V.S.A. § 831. A record of the oaths must be kept in permanent form by the municipal clerk. The oath is required each time an elected person qualifies for a new term of office. Assistant election officers appointed by the board of civil authority for election purposes must also be sworn. 17 V.S.A. § 2454.

The municipal clerk's certificate of election and oath (24 V.S.A. § 1151) was discussed in the first chapter of this handbook.

B. OATH FOR CLERK, SELECTBOARD, CONSTABLES, GRAND JURORS, FENCE VIEWERS AND ASSISTANT ELECTION OFFICERS

The oath to be administered to the officers listed above is a general oath used whenever a specific form is not provided. 12 V.S.A. § 5813. The form of the oath is as follows:

“You solemnly swear that you will faithfully execute the office (duty or trust) of _____ to the best of your judgment and abilities, according to law. So help you God.”

The word “affirm” may be substituted for “swear” and the words “under the pains and penalties of perjury” substituted for “So help you God.” 12 V.S.A. § 5851.

C. OATH FOR LISTERS

Upon taking office, each lister shall take the following oath:

“I, _____, do solemnly swear (or affirm) that I will appraise all the personal and real property subject to taxation in the town (or city) of _____, so far as required by law, at its fair market value, will list the same without discrimination on a proportionate basis of such value for the grand list of such town (or city), will set the same in the grand list of such town (or city) at one percent of the listed value and will faithfully discharge all the duties imposed upon me by law. So help me God” (or, “Under the pains and penalties of perjury.”). 32 V.S.A. § 3431.

Dated at _____ this ____ day of _____, 20__.
At _____ in _____ County, State of _____

Vermont, on this ____ day of _____, 20____, personally appeared _____ and took and subscribed the foregoing oath.

Before me,

(name and designation of officer administering oath)

When the completed grand list is filed in the office of the municipal clerk, each lister shall attach to the grand list a second oath, which says:

“I do solemnly swear (or affirm) that according to my best knowledge, information and belief the foregoing list contains a true statement of the listed value of all taxable real and personal estate, taxable within the Town of _____. So help me God (or “Under the pains and penalties of perjury.”).”

The clerk shall then certify upon the list the time at which each lister took the oath and the date upon which the grand list was so filed. 32 V.S.A. § 4151 (b) & (c).

A board of three appraisers (listers) for unorganized towns and gores in each county is appointed biennially by the Director of Property Valuation and Review, with the approval of the Governor, on the first Tuesday in March. 24 V.S.A. § 1401. Their oaths of office, signed by them and filed in the office of the county clerk, are the same as for the listers. 24 V.S.A. § 1402.

D. OATH FOR BOARD OF CIVIL AUTHORITY

Taxpayers appealing a property valuation file their first appeal with the board of listers. If not satisfied by the action which the listers take, an appeal may be made to the board of civil authority. Each member of the board of civil authority must take, subscribe, and file in the municipal clerk’s office the following oath, which is recorded by the municipal clerk:

“I do solemnly swear (or affirm) that I will well and truly hear and determine all matters at issue between taxpayers and listers submitted for my decision. So help me God (or, “Under the pains and penalties of perjury.”).” 32 V.S.A. § 4405.

E. JUSTICES OF THE PEACE

Justices of the peace are elected biennially on the first Tuesday next after the first Monday of November during the general election. *Vermont Constitution*, Chapter II, Section 43. A justice’s term of office takes effect February 1 following the election and runs for two years. 4 V.S.A. § 491.

Before entering his or her duties each justice must deposit with the town clerk a copy of the official oath signed by him or her and certified by the magistrate or notary public who administered the same. Justices' oath forms are now provided by the Secretary of State's Office. 4 V.S.A. § 491.

The official oath is as follows:

“You, _____, do solemnly swear (or affirm) that you will faithfully execute the office of justice of the peace for the _____ of _____ and will therein do equal right and justice to all people, to the best of your judgment and ability, according to law. So help you God (if an oath, or “Under the pains and penalties of perjury” if an affirmation).” *Vermont Constitution*, Chapter II, Section 56.

Contact your town clerk if you have questions concerning the justice's oath.

F. VOTER'S OATH (formerly the Freeman's Oath)

In order to be eligible to vote in Vermont, a person must take the Voter's Oath. 17 V.S.A. § 2121. The municipal clerk is among those authorized to administer the oath. The person who administers the oath must sign his or her name and rank in the appropriate place on the application or provide some other written notification giving the person's name and the date the oath was administered. 17 V.S.A. § 2124. The voter registration application form shall comply with the requirements of 17 V.S.A. § 2145.

The municipal clerk files the completed application and the written notification that the person has taken the oath if submitted separately. Upon request, the municipal clerk shall verify that a voter has taken the oath. 17 V.S.A. § 2124(d).

The Voter's Oath need only be taken once. This is true even if a person has moved out of state and back to Vermont. However, a returning former Vermonter must re-establish residency and apply for addition to the checklist. 17 V.S.A. § 2125.

The text of the oath can be found in the *Vermont Constitution*, Chapter II, Section 42.

“You solemnly swear (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any person.”

G. OATH FOR APPOINTED OFFICIALS

When a person is appointed to perform any duty or execute any office, commission or trust where an oath is required and there is no specific form of oath mandated, such oath shall be as prescribed in 12 V.S.A. § 5813.

IV. NOTARIES PUBLIC

A. EX OFFICIO

Vermont municipal clerks and assistant clerks are ex officio notaries public. Other ex officio notaries are clerks of the county, supreme court, district court and family court, as well as justices of the peace. Terms of office for such ex-officio notaries end with the expiration of their term in the office on which the status of notary depends.

Additional appointments to the office of notary public are made by the judges of the superior court, who appoint as many non-ex-officio notaries as are necessary for any particular county. These appointed notaries hold office until ten days after the expiration of the terms of the superior court judges who appointed them. These non-ex-officio notaries have jurisdiction throughout the state. 24 V.S.A. § 441.

B. CERTIFICATE AND OATH

A person who is appointed as a notary public sends the certificate of his appointment to be filed and recorded in the office of the clerk in the county where the appointment was issued. The form of the certificate of appointment is found in 24 V.S.A. § 442 and is approximately as follows:

This is to certify that [name of appointee] of [name of town] in [county of appointment] was, on the _____ day of 20__ appointed by the judges of the superior court for such county a notary public for the term ending on February 10, 20__.

Judges of the
Superior Court.

And at _____ in such county, on this _____ day of _____ 20__, personally appeared _____ and took the oath of office prescribed in the Constitution.

Before me,

(name and designation of officer administering oath)

Immediately after the appointment of the notary public, the county clerk sends a certificate of the appointment to the Secretary of State, who has the certificates bound and indexed for a permanent record. 24 V.S.A. § 183.

Before assuming the duties of office, each notary, both appointed and ex officio, must take the oath or affirmation of office mandated by Chapter II, Section 56 of the *Vermont Constitution*. He or she shall then sign the oath, which shall be kept on file by the county clerk. 24 V.S.A. § 442. At the end of four years, the county clerk shall have the oaths bound into book form as a final record. 24 V.S.A. § 443.

C. FEES

Although appointed notaries public may charge certain fees for their services, municipal clerks and assistant clerks who are ex-officio notaries must provide such services without charge or fee. 32 V.S.A. § 1403(b). However, in instances in which no specific fees are provided for, persons who have a duty to record deeds or proceedings or to make copies of records, proceedings or minutes shall be allowed to collect:

- \$0.60 per folio, with a minimum fee of \$1.00;
- \$2.00 for each official document; and
- \$2.00 for the authentication of documents.

This same law, however, creates an exception from charging an honorably discharged veteran or any member of his or her family a fee for copies of certain records specified in 32 V.S.A. § 1751 (a).

D. SEAL

A seal for a notary public is no longer required on any occasion. 24 V.S.A. § 444, *repealed*. However, if the documents will be going out of state, it is customary and advisable that the embossed seal be used. Such documents will then be validated in the state or nation to which they are going.

E. POWERS AND DUTIES OF A NOTARY PUBLIC

Notaries have the general authority to take acknowledgements, administer oaths and affirmations, and to certify that a copy is a true copy of a document. They may also perform any other act permitted by law. 24 V.S.A. § 445. The notary may administer oaths of office when no other provision is made by law for their administration. 12 V.S.A. § 5852.

The town clerk has the authority to acknowledge deeds and other conveyances of lands, an estate or an interest therein as well as leases of real property. Certain of these documents must be recorded at length in the clerk's office of the town in which the land is located. Note that "a deed or other conveyance of land which includes a reference to a survey prepared or revised after July 1, 1988 may be recorded *only if* it is accompanied by the survey or cites the volume and page in the land records showing where the survey has previously been recorded." The document, when acknowledged before a notary public, will be valid without the official seal of the acknowledging notary affixed to his signature. 27 V.S.A. § 341.

Conversely, a deed or other conveyance acknowledged by a notary public outside of the state shall be valid in Vermont if it is valid in the state, province, nation or kingdom of its execution. 27 V.S.A. § 379.

Notaries can certify *only* copies of documents which are in their official custody, such as deeds and vital records (birth certificates, marriage licenses, etc.). When asked to certify a copy of a record which is not in the clerk's custody (e.g. a birth certificate from another town or state), the clerk/notary can only certify as to the identity of the person requesting the copy, not to the authenticity of the original document. This is not spelled out in the Vermont statutes but derives from generally accepted law. *Black's Law Dictionary, 7th edition* defines certified copy as "a duplicate of an original ... document, certified as an exact reproduction usually by the officer responsible for issuing or keeping the original."

F. LIABILITY

A notary shall be liable for damages caused by his or her official misconduct. 24 V.S.A. § 446.

Note: For more detail, consult *A Short Guide for Vermont Notaries Public*, published on the Vermont Secretary of State's web page (<http://www.sec.state.vt.us/>). You may also reach them by telephone at (802) 828-2363.

V. LICENSES (GENERAL)

A. DOGS AND WOLF HYBRIDS

NOTE: "Dog" shall also mean "dog and wolf-hybrid" for purposes of this section.

Any dog that is more than six months old must be registered and licensed annually, on or before April 1st, by the clerk of the municipality in which the dog is kept. 20 V.S.A. § 3581(a).

To obtain a license the owner must pay a fee, present the clerk with proof that the animal has been vaccinated against rabies within the prescribed time (a licensed veterinarian's certificate) and, in the case of a spayed or neutered animal, provide a certificate of sterilization from a licensed veterinarian. 20 V.S.A. § 3581(b), (d).

A license issued by any town clerk in Vermont is valid in any part of the state, provided that it is recorded by the clerk in the town where such dog is kept. 20 V.S.A. § 3591.

Current general license fees for dogs who are family pets are \$8.00 each if unneutered or unspayed and \$4.00 each for neutered or spayed animals. 20 V.S.A. 3581(a). Fees for dogs kept for breeding purposes or in a licensed kennel are addressed later in this chapter.

If an animal is not licensed by April 1, the owner may still register it by paying a fee of 50% more than the usual amount (e.g. \$12.00 and \$6.00 for unneutered and neutered animals respectively). 20 V.S.A. § 3581(a).

A *current* rabies vaccination means that:

- a dog of less than one year of age has been vaccinated;
- a dog between one and two years of age has been vaccinated within the preceding twelve months; or
- a dog two or more years old must have been vaccinated in the preceding twenty four months. 20 V.S.A. 3581(e).

Copies of the rabies certificates are kept on file in the municipal clerk's office, along with a copy of each dog's license. License records shall contain the name of the owner or keeper as well as the name, license number and description of each animal. Records may be kept alphabetically or numerically. 20 V.S.A. §§ 3581, 3589.

A dog obtained after April 1st, or that reaches the age of six months after April 1st, must be licensed within 30 days. If the application for license is filed after October 1st, the license fee is half the usual amount. Failure to file in a timely manner results in a 50% increase in the fee required. 20 V.S.A. § 3582.

Dogs kept for breeding purposes may be licensed with a special license annually on or before April 1, provided that:

- the animals will be kept in a proper enclosure;
- they are properly immunized against rabies; and
- the owner pays \$30.00 for the first ten or fewer animals and \$3.00 extra for each additional animal. 20 V.S.A. § 3583.

Dogs registered under this special license are exempt from other fees. 20 V.S.A. § 3583.

Owners of two or more dogs more than four months old kept for breeding purposes except for the owner's own use are required to apply to the municipal clerk for a kennel permit for a fee of \$10. 20 V.S.A. § 3681. In addition, each animal must be licensed individually for the usual and customary charges outlined in 20 V.S.A. § 3581(a). The kennel permit, which must be renewed each year by April 1st, must be prominently displayed on the premises where the kennel is located. 20 V.S.A. § 3681.

Owners of dogs licensed under the breeder's license (20 V.S.A. § 3583), or under the kennel permit (20 V.S.A. § 3681) may, if they miss the April 1st licensing date, renew their dogs' licenses by paying a 50% surcharge in excess of the initial fee.

Some of the statutes in 20 V.S.A. Chapter 193 which pertain to "dog laws" are poorly written and, consequently, ambiguous and difficult to understand. The two sections of the law quoted above—the sections dealing with breeding animals and kennels—are

cases in point. There is little substantive difference in those two sections, and it may be necessary for a municipal clerk to determine which of the two applies in a particular case.

The legislative body of the municipality may impose an additional fee of up to \$10.00 per license to fund an animal and rabies control program. 20 V.S.A. § 3581 (c). This surcharge is *not* considered to be a part of the license fee when figuring a penalty for late payment of a dog license. 20 V.S.A. § 3581 (c).

The municipal clerk shall retain \$2.00 for each license or permit issued, and shall pay the remainder of the fees to the town within 60 days of receipt, along with a sworn statement as to the money received and paid over by him or her. 20 V.S.A. § 3588.

Selectboards are mandated to create a list of all dogs in town, whether licensed, unlicensed or uninnoculated. This list shall then be submitted to the town clerk, who must then notify owners or keepers of all unlicensed and/or uninnoculated animals of the dogs in town. A list of the animals that have not been immunized and licensed as of May 30th shall be sent to the legislative body, which shall notify owners and keepers that their animals may be destroyed. 20 V.S.A. § 3590.

For more information about rabies control, vicious dogs and the impounding or sale of dogs, see Chapter XIII, Section A, of this handbook.

B. MARRIAGES

A marriage license is issued to either the bride or groom by the clerk in the town in which one of the two lives, or, if neither is a resident of the state, by a town clerk in the county in which the marriage is to be solemnized. 18 V.S.A. § 5131. Couples from other states must be married in the county in which the license is issued. Before issuing the license, the clerk must have (1) an application signed by at least one of the parties (18 V.S.A. § 5131), and (2) an affidavit or other proof certifying that both parties are free to marry under Vermont law. 18 V.S.A. § 5141.

In order to marry in Vermont, a person must be one of the following:

- at least 18 years of age;
- at least 16 and with permission of a parent or guardian;
- under the age of 16 and a Vermont resident, with a certificate from a probate, district or superior court judge of the district or county of residence of one of the applicants;
- under the age of 16 and not a Vermont resident, with a certificate from a judge of the district or county in which the marriage will take place.

In addition, a clerk shall not issue a marriage license when either of the intended parties is:

- non compos mentis;
- under guardianship, without the guardian's consent; or

- under the age of 14 years.
18 V.S.A. § 5142.

A clerk who knowingly violates the requirements for issuing a license may be subject to various fines. 18 V.S.A. §§ 5139, 5141, 5143.

The license is valid for 60 days, and the marriage must take place within that time period. 18 V.S.A. § 5131(b). Within ten days after the wedding, the individual who solemnized the marriage shall complete the appropriate sections of the form and return it to the municipal clerk who issued it. (Furnishing a stamped, self-addressed envelope helps to facilitate this process.) The completed document is then known as a marriage certificate. Such certificate must be received, numbered, filed for record and preserved as mandated under 18 V.S.A. §§ 5007-5008. Copies of marriage certificates must be sent to the supervisor of vital records in accordance with 18 V.S.A. § 5010.

Within six months following the wedding, the municipal clerk who issued the license may, within his or her discretion, correct or complete a marriage certificate if either of the parties to it or the person who officiated at the ceremony requests it. If such a request comes after that six month period, the correction or completion can be done only by court order. 18 V.S.A. § 5150.

C. CIVIL UNIONS

A civil union is a relationship established by two eligible people pursuant to 15 V.S.A. Chapter 23. Such a union confers upon the two people the benefits, protections and responsibilities of spouses. 15 V.S.A. § 1201(2). In order to qualify for a civil union license, the two people must meet the following criteria:

- Neither can be a party to another civil union or marriage;
- they must be of the same sex;
- they shall not be relatives, as defined in 15 V.S.A. § 1203; and
- they must meet the criteria set forth in 18 V.S.A. § 5163.

15 V.S.A. §§ 1202-1203.

The criteria listed in 18 V.S.A. § 5163 are that the clerk shall not issue a license when either party to the intended civil union is:

- under 18 years of age;
- non-compos mentis; or
- under guardianship, without the consent of the guardian.

Violation of this statute shall result in a fine of not more than \$20.00 for the clerk.

A civil union license shall be issued by a town clerk in the form prescribed by the Department of Health and may be issued by the clerk of the municipality in which either party resides or, if neither is a resident of Vermont, it may be issued by any town clerk.

18 V.S.A. § 5160. At least one party to the proposed union must sign the application attesting to the accuracy of the information provided. An applicant who makes a material misrepresentation in the declaration of intention shall be deemed guilty of perjury. Before issuing a civil union license, the “[C]lerk shall be confident, through ... affidavits or other proof, that each party ... meets the criteria set forth to enter a civil union.” Affidavits must be in the prescribed form and shall be attached to and filed with the completed certificate. If a clerk issues a civil union license without knowledge that the applicants have complied with the requirements, the clerk shall be fined not more than \$100.00. 18 V.S.A. § 5162.

A town clerk who knowingly issues a civil union license to persons who do not reside in that town, or a clerk who issues a license which the applicant has not completed, signed and sworn to shall be fined \$20.00 to \$50.00. 18 V.S.A. § 5160(d).

Once issued, the license is valid for 60 days. The licensees shall present it to a person authorized to certify civil unions. After that person has certified the civil union, he or she shall fill out the pertinent part of the license form and sign it, completing the certification. The certifier shall, within ten days, send the completed certificate to the town clerk who issued the license. The clerk shall then retain and file the original according to 18 V.S.A. §§ 5007-5008, 5106.

A clerk may correct or complete a civil union certificate upon petition of one of the parties or the person who certified it within six months of the time when the union was certified. The correction or completion shall be certified and dated by the clerk. If the clerk refuses to correct or complete it, or if six months has passed, the party may petition the probate court to do so. 18 V.S.A. § 5168.

Certificates of civil unions shall be handled as other vital records are under 18 V.S.A. Chapter 101. Unless an index of civil unions is kept by card index, as allowed in 24 V.S.A. § 1153, it shall be kept in the following form:

Book	Page	Party to Party	Date	Book	Page	Party to Party	Date
1	1	A to B	7/1/00	1	1	B to A	7/1/00
1	2	C to D	7/5/00	1	2	D to C	7/5/00

18 V.S.A. § 5012.

D. FISH AND GAME LICENSES

The commissioner of the Department of Fish and Wildlife establishes agencies which may sell fish and game licenses. Any town clerk who wishes to sell licenses may be appointed as an agent. 10 V.S.A. § 4254 (e)(1). Town clerks may issue the following licenses: fishing, hunting, combined fishing/hunting, archery, muzzle loader, turkey, small game and resident trapping. 10 V.S.A. § 5252. Clerks may keep one dollar of the fee received for the license. 10 V.S.A. § 5254 (e)(9). Non-resident trapping licenses must be issued from the central office of the Vermont Department of Fish and Wildlife. 10 V.S.A. §§ 4254, 4254a.

A fishing license may be issued to anyone 15 years of age or older. 10 V.S.A. § 4254(a). A person under 15 years of age does not require a fishing license. 10 V.S.A. § 4252.

A resident or non-resident hunting or combination fishing/hunting license may be issued to anyone who presents one of the following:

- a certificate of satisfactory completion of a Vermont hunter safety course;
 - a certificate of satisfactory completion of a hunter safety course in another state or Canadian province approved by the commissioner;
 - a current hunting or hunting/fishing license issued for any state or province of Canada; or
 - other satisfactory proof that he or she has previously held such a license.
- 10 V.S.A. § 5254.

A person under 16 years of age may be issued a hunting license only with the written consent of their parent or guardian. Such consent must be given in the presence of the agent issuing the license. 10 V.S.A. § 4254.

A resident or a non-resident applying for a trapping license must present one of the following:

- evidence of successful completion of an approved trapper education course;
 - evidence of successful completion of a trapper education course in another state or a province of Canada;
 - a current trapping license issued by any state or province of Canada; or
 - other satisfactory proof that they have previously held a valid trapping license.
- 10 V.S.A. § 4254a.

As noted above, town clerks are *not* authorized to issue *non-resident* trapping licenses.

There is an exception to the license requirement for landowners and their families. 10 V.S.A. § 5253. There are also special provisions for Vermont residents 65 years of age or older, persons who are legally blind or paraplegic, certain veterans of the armed forces, Special Olympics participants and some students. 10 V.S.A. § 4255. In addition, members of the armed forces who are on active duty get special consideration. 10 V.S.A. §§ 4258, 4259.

Fees for both resident and non-resident licenses are specified in 10 V.S.A. § 5255.

E. INNKEEPERS AND RESTAURANTS

Licenses for owners of inns and restaurants are issued, for a year or less, by the selectboard, or, in the case of unorganized towns and gores, by the judges in the county in which the inn or restaurant is located. 9 V.S.A. § 3061.

Licenses granted by the selectboard must be signed by a majority of the members. They do not take effect until they are recorded in the municipal clerk's office. There is no fee for the license, but the licensee does pay a recording fee to the municipal clerk. If the license is subsequently revoked by the selectboard, the certificate of revocation is also recorded in the municipal clerk's office and a notice of the revocation is sent to the licensee. 9 V.S.A. § 3062.

F. LIQUOR LICENSES

The sale of alcoholic beverages within a municipality must be approved by the voters. 7 V.S.A. § 221. When the voters have approved such sale, the selectboard then sits as the local liquor control board and acts on applications for licenses. 7 V.S.A. § 222. The town clerk is recording officer and clerk for that body. 7 V.S.A. § 166. Fees for licenses are listed in 7 V.S.A. § 231. Fees for first and second class licenses are retained by the municipality to be used as it may direct, except for \$5.00 of each fee which shall be retained by the town clerk as a fee for issuing and recording the license. 7 V.S.A. §§ 232-233. Fees for all other classes of liquor license go to the state liquor control board.

See also Chapter XV of this handbook.

G. MOTOR VEHICLE REGISTRATION

Town clerks may become agents to renew the registration of motor vehicles, snowmobiles and motorboats on behalf of the commissioner of motor vehicles. The clerk shall assess and collect the registration fee, retain \$2.00 as an administration fee and send the remainder to the commissioner immediately. 23 V.S.A. § 6.

All Vermont residents must register such vehicles annually by application "on a form prescribed by the commissioner, showing such motor vehicle to be properly equipped and in good mechanical condition ... accompanied by the required registration fee and evidence of ownership." 23 V.S.A. § 303 (a). Fees vary for different types and weights of vehicles. See 23 V.S.A. §§ 361 et seq. for current fees.

H. TRAILER PARK REGULATION AND LICENSING

Municipalities which do not have zoning may regulate and license trailer parks by ordinance. Applications are made to the municipal clerk and the clerk shall collect such fees as are set by the legislative body. 24 V.S.A. § 2232.

NOTE: Another resource on the subject of licenses is *Vermont Government Regulations*, published in three-ring binder form and updated periodically by Weil Publishing Co., Inc., PO Box 1990, Augusta, Maine 04332-1990 (800-877-9345). It is a compilation of the regulations of each state agency's regulations.

VI. GENERAL RECORDING PROCEDURES

A. CLERK'S RESPONSIBILITY FOR RECORDS

Municipal clerks are responsible for recording and preserving the town's public records. This includes such diverse documents as land records, minutes, permits, plats, vital records, licenses, and election and tax information. The orderly business of the town and its inhabitants depends on the clerk.

The municipal clerk is responsible for recording the transactions of all town meetings and that "record shall be deemed to be the true and official records ... provided it has been attested by any two of the following town officers present at the meeting: moderator, select[persons], and justices of the peace." The minutes should be approved promptly. Recordings or stenographic services are not prohibited in creating the minutes. 24 V.S.A. § 1152.

Public records are defined by state law and are under the general auspices of the Public Records Division of Buildings and General Services, which provides an information specialist as the link between the state agency and municipal governments. The specialist may provide training and assistance in the management and destruction of municipal records. This includes vault design standards, interpretation of state statutes, schedules of required record retention and destruction, disaster preparedness, and recording/record keeping requirements, as well as a list of approved copiers for use in clerks' offices. There is also a newsletter for municipal clerks which contains items of interest, updates and special reports. 22 V.S.A. §§ 453-454.

The Public Records Division is located at the General Services Center, US Route 2, PO Drawer 33, Montpelier, VT 05602 (telephone 802-828-1005, fax 802-828-3710). Further information, including schedules and forms, is available on the Internet at the Vermont State home page (<http://www.state.vt.us/>).

B. ACCESS TO PUBLIC RECORDS

1. Law. The right of the public to view public records is based on Chapter I, Article 6 of the Vermont Constitution, which defines officers of government as "trustees and servants" of the people who are "at all times, in a legal way, accountable to them." Therefore, it is in the public interest for individuals to have access to public records whenever possible. The Access to Public Records Law details the clerk's responsibilities for making the records public. 1 V.S.A. § 315-320. Note that the policy statement in 1 V.S.A. § 315 and the annotations of that statute indicate that the provisions of this law "shall be liberally construed."

Most public records (the exceptions are discussed below) must be available for public inspection during the hours the municipal clerk's office is open for business. If an individual wants a copy of a record and the office has a copier, most documents must be provided for the copying cost. However, if the record or document to be copied is one

for which the municipal clerk is entitled to charge the “usual and customary fee,” (e.g. \$7.00 for a certified copy of a death certificate), there can be no extra charge for the copy.

When a clerk receives a request for a public record to which the person is entitled to have access, he or she must produce it unless it is being used by someone else or has been put into storage. If the record is not immediately available, the clerk should indicate this to the applicant in writing and then set a time, within the ensuing seven days, when the applicant can return and view the document. 1 V.S.A. § 318(a)(1). If more time is needed to locate the document, that information should be indicated in writing to the applicant, and an extension of time granted for up to ten working days while the document is located and processed. 1 V.S.A. § 318 (a)(5).

If the record does not exist, which may happen in the case of very old records, the clerk will so inform the applicant in writing. 1 V.S.A. § 318(a)(4).

If the clerk believes that the requested record is exempted from public scrutiny, that information shall be stated, in writing, to the person requesting it. (*See subsections 2 and 3 below for exceptions to public records.*) Also, at this point it might be advisable for the clerk to check that opinion with a lawyer. If your municipality is a member of the Vermont League of Cities and Towns, the clerk may consult our Law Center at 800-649-7915. Although the statute gives the person seeking the record the right to appeal the clerk’s decision “to the head of the agency,” the fact is the clerk is not subject to the head of any agency. Therefore, the proper recourse for the individual requesting the document is an appeal to Superior Court. 1 V.S.A. § 319.

If the office has no photocopier, the clerk has no obligation either to provide for or to arrange photocopying services anywhere else, nor is there any obligation for the clerk to provide personnel to make handwritten or typewritten reproductions. The person requesting the copy may make a handwritten copy of their own, but cannot remove the original from the office to do so. When copies are made in this manner, the clerk must take precautions to protect the records from harm or damage and to insure that the regular business of the town office is not disrupted. 1 V.S.A. § 316 (a-c). (*For costs of making copies with town-owned copiers, See subsection 4, below.*)

2. List of Exceptions. “Public records” are defined in 1 V.S.A. § 317 (b) as *all* records, papers, etc. collected by the town in the course of business *except* those specifically named in that statute.

Note that some of the exceptions to open records are those which, by law, are designated confidential or which may only be disclosed to specifically designated persons. Those records are unlikely to be filed with a town clerk, as they involve such things as court diversion programs and lists of food stamp recipients. Some other exceptions involve records of state bodies, such as the Department of Public Safety or the University of Vermont, and would not involve the town clerk. However, the clerk and all other officials who have public records in their custody must be familiar with 1 V.S.A. § 317 and should consult it whenever a question arises about access to public records.

The interpretation of many of the exceptions listed in 1 V.S.A. § 317 (b) is straightforward, such as those dealing with criminal investigation, tax returns, etc. However, others, such as personnel records, contract negotiations, litigation, intra- and inter-departmental memos are not so clear. They require careful reading of the statute and of the annotations following the statute. They may also require consultation with the town attorney before release of the record. The VLCT Law Center (800-649-7915) is also available to VLCT-member municipalities to help resolve questions regarding what constitutes a public record.

3. E-911 and Confidentiality. The E-911 emergency response system created under 30 V.S.A. Chapter 87 poses a special problem for towns regarding access to public records. Section 7059 of Title 30 addresses confidentiality of information collected for E-911 purposes. It says, in part ...

(d) If a municipality has adopted conventional street addressing for enhanced 911 addressing purposes, the municipality shall ensure that an individual who so requests will not have his or her street address and name linked in a municipal public record, but the individual shall be required to provide a mailing address. The request required ... shall be in writing and shall be filed with the municipal clerk... [and] shall be confidential. A form shall be prepared by the [E-911] board and made generally available to the public by which the confidentiality option established by this subsection may be exercised.

The exact meaning of the statute is a little unclear and, since violations of it may result in fines, imprisonment and other penalties, a certain amount of anxiety has been generated by it. Some documents which municipalities have kept for decades – such as lister cards, tax maps and voter lists – provide “locatable” information regarding property sites and their owners. Section 7059 (d) appears to mean only that any municipal document created for E-911 purposes must, if the person so requests, show an alternative mailing address (e.g. a post office box number) so that the person and the E-911 location are not linked in that document. (For more detail on E-911 and confidentiality see *VLCT News*, July 1998, p. 7 and January 1999, p. 6.)

4. Copying Charges. Municipal offices may charge “the actual cost of providing the copy” when allowing copies of documents to be made on town-owned copiers. The costs of mailing or faxing records may also be recovered. 1 V.S.A. § 316 (b). Costs of staff time used in copying and transmitting may be charged, as specified in 1 V.S.A. § 316 (c).

The statute mentions providing a copy of a record in a “nonstandard format.” In an age of exploding technology, it is difficult to say what may be “non-standard.” However, for purposes of calculating cost, it could reasonably be construed to mean changing the record from the form in which it is usually stored to some other form (for example, from a recorded to a typed transcript of a hearing or from minutes on a computer disc to a hard copy printout).

General guidelines for selectboards to use when setting the actual cost of copying are also set out. They include staff time, cost of paper or electronic media, a prorated amount for maintenance and replacement of equipment, and utility costs of copying. If the selectboard fails to set an actual cost, the town shall use the cost established by the Secretary of State. 1 V.S.A. § 316 (d) (e).

Note that if the document to be copied is one for which a statutory fee may be charged, then the clerk shall charge that fee and no extra copying charge. It is advisable to post a list of the established copying costs in the clerk's office, along with the other usual and/or statutory fees.

Note also that 1 V.S.A. § 316 deals with cost of *public records* only. Copies of other materials presumably may or may not be copied on town equipment at the discretion of the town and may be charged for at a rate set by the town. A policy should be set in writing and posted, which lists what non-public documents may be copied and the cost for copying. Everyone who wishes to take advantage of the copying must be treated the same in order to avoid a constitutional challenge based on equal protection and due process.

5. Vermont Statutes. The State librarian distributes copies of *Vermont Statutes Annotated* and the annual pocket part supplements to various state officers and offices, including one copy to each municipal clerk who shall keep it in his or her office and make it available to the public. 29 V.S.A. § 1158(b).

Note also that the *Vermont Statutes Online* are available via the Internet (<http://www.leg.state.vt.us/statutes/statutes2.htm>). They do not include the annotations and there is a disclaimer saying that they are not the official version of the statutes. However, it is a resource readily available to the public.

C. INDEXING SYSTEMS

The clerk must keep indexes of various public records. Such indexes may be kept in either book or card form. 24 V.S.A. § 1153.

Real estate transactions, including “every deed, conveyance, mortgage, lease or other instrument affecting the title to real estate, and each writ of attachment, notice of lien or other instrument evincing or giving notice of an encumbrance on real estate which is filed or recorded in the town clerk's office...” must be recorded. Note that transactions “affecting the title to real estate” includes all of the instruments described in 24 V.S.A. § 1154 (a) & (b). Those documents must then be indexed by the name of each grantor and grantee, whether a natural person or a corporation, with reference to the book and page where the document is recorded. 24 V.S.A. § 1161. This statute also defines “grantor” and “grantee” for purposes of land records.

See Chapter VII for more detail regarding land records.

Likewise, a municipal clerk must keep a book containing the alphabetized index of all attachments of personal property. That index must list the names of the parties to the lawsuits, the amount of debt or damage being claimed, and other information pertinent to the case. 24 V.S.A. § 1163.

All of these indices must be kept by the clerk in the town office. Any neglect on the part of the clerk or the town will result in a fine. 24 V.S.A. § 1162. It may also result in a lawsuit, although annotations under 24 V.S.A. § 1154 indicate that the lack of an index does not invalidate the document. The purpose of the index, then, is to provide relatively easy access to documents rather than to invalidate them.

D. RECORD STORAGE

All towns are required to have fireproof safes or vaults big enough to adequately protect files and records which are in the municipal clerk's office or which may accumulate there. 24 V.S.A. § 1178. Since most town records are important and many are irreplaceable, this is not an unreasonable requirement. Land records, tax information and birth and death records are vitally important to individuals and to the town.

The Public Records Division of Buildings and General Services can provide information and advice regarding vault specifications. In general, those specifications follow the recommendations outlined in *National Fire Protection Association (NFPA) Bulletin 232*, 1995 edition, which is available from architects and contractors who are qualified to design and construct such a vault.

Survey plats which are filed with the clerk must be stored and maintained as directed by the Commissioner of Buildings and General Services. 27 V.S.A. § 1402.

E. DISPOSITION OF PUBLIC RECORDS

“A custodian of public records shall not destroy, give away, sell, discard or damage any record or records in his or her charge, unless specifically so authorized by law, without having first submitted to the commissioner of buildings and general services a list thereof, with accurate description.” The commissioner may require that records be copied photographically or electronically before they may be destroyed. 22 V.S.A. § 454 (a) and (c). Any person who tampers with public records without having authority to do so may be fined \$50.00 to \$1,000.00 per offense. 22 V.S.A. § 455.

Changes in the disposition of public records are ongoing. To determine the current status of individual records, phone the Public Records Division (802-828-1005) or visit their website (<http://www.bgs.state.vt.us/GSC/clerks>).

F. PRESERVATION OF PERMANENT RECORDS

The Vermont Division of Public Records will microfilm land records, plats/plans and other volumes for local governments. For further information, call them at 802-828-3290, or access them online at <http://www.bgs.state.vt.us/GSC/pubrec/micro/index.html>.

VII. LAND RECORDS

The term “land records” generally designates the series of books in the custody of the municipal clerk in which instruments affecting real estate are recorded. Land record maps and plats are also considered land records and are filed in the municipal clerk’s office. Under 24 V.S.A. § 1154, the clerk is mandated to record in the land record books provided by the town:

- deeds;
- instruments or evidences respecting real estate;
- writs of execution, other writs or the substance thereof, and the returns thereon;
- hazardous waste site information and hazardous waste storage, treatment and disposal certificates established under 10 V.S.A. Chapter 159;
- underground storage tank information under 10 V.S.A. Chapter 59;
- municipal land-use permits ..., notices of violations relating to municipal land use;
- denials of municipal land-use permits; and
- other instruments delivered to the town clerk for recording.

Survey plats must also be filed and indexed. (See Section C, below.)

Note that *temporary* land-use permits need not be recorded.

If notices of municipal land use permits or notices of violation are recorded, they shall list:

- as grantor, the owner of record at the time of issuance;
- as grantee, the issuing municipality;
- the municipal office at which the original, or a true, legible copy may be examined;
- whether an appeal has been taken; and
- the tax map lot number or other identifying information.

Specific mention of documents that must be filed or recorded are scattered throughout the statutes. For example, many types of liens, discharges of liens and mortgages, certificates of occupancy and the certificate of residential building energy standards are mentioned.

The town must record those real estate transactions presented. However, the town cannot force people to present transactions for recording.

All of this information must be kept and indexed, with an index in each book of record.

A. RECORDING LAND RECORDS

1. Recording by Transcription. Among the oldest records in any community's municipal office are the volumes of recorded land deeds. Many of the state's founders were actively involved in "land dealings," and names like Ethan and Ira Allen and Thomas Chittenden are among those that catch the eye of the local historian browsing through those earliest records.

Of course, the handwritten signatures are not those of the Allens and the tiny republic's first governor. All of the original deeds were returned to the grantees, those to whom the land mentioned in the deeds was sold. All of these deeds in the town's archives were "recorded" or painstakingly copied by hand by the municipal clerk in "books to be furnished by the town."

2. Photocopying. Photocopiers are now used in most instances to produce copies of records for insertion into the land records or in any of the many kinds of record books required by law to be kept by the municipal clerk. 24 V.S.A. § 1154.

The use of photostatic copies was begun by municipal clerks fairly early in this century. In 1927, their use was challenged in the town of Bennington, when the selectboard sought court action to deny its municipal clerk the right to use a photocopying machine to record land deeds. In a decision handed down by the Vermont Supreme Court, the Court ruled that the three main requirements for public records are that they be accurate, legible and durable. The Court also found that the statute does not require the use of any particular method of recording as long as it met the three criteria laid out above, and found that the particular copier used by the Bennington clerk met those criteria. The courts also held that while the selectboard does have the responsibility of "keeping the town running right," it has no control over the clerk, whose duties are set by statute and include the recording and maintaining of town records. *Town of Bennington v. Booth*, 101 Vt. 24 (1928).

3. Microfilm. The Division of Public Records has the duty to preserve the state's public records. To that end, it is empowered to microfilm and store the records of individual towns. Having town records microfilmed is investing in protection against damage to or destruction of irreplaceable records. For more information on microfilming such records, contact Public Records online at <http://www.bgs.state.vt.us/GSC/pubrec/> or call 802-828-3290.

B. INDEXING LAND RECORDS

1. General Index. The law requires that "a municipal clerk shall keep a general index of transactions affecting the title to real estate..." 24 V.S.A. § 1161. A general index mirrors the indices of the individual volumes, each of which covers a particular period of time. For instance, Volume One might encompass the years between 1760 and 1820.

(Many of the towns in western Vermont were chartered between 1760 and 1770.) The number of years assigned to a particular volume is based on the number of deeds amassed during that period. These indexes, located in the front of each volume, are maintained in alphabetical order, just like the general index.

Note that survey plats or maps must also be indexed. (See Section C below.)

2. Daily Index/Chronological Document Register. The daily index contains essentially the same information as the general index, but set forth in chronological order. While some clerks use a daily register, it is not mandated by statute. Many towns use such a chronological document register for *all* documents received for recording or filing, not just land records. The index or register is usually in the form of a loose-leaf book and should include:

- the date and time the instrument was received for recording or filing;
- the name of the person from whom it was received;
- the nature of the instrument;
- the names of the grantors and grantees;
- fees received and the date they were received; and
- the name of the person to whom the document was returned, the date on which it was returned, and how it was returned (by hand or mail).

Basically, the register functions as a log so that all land-related (or other) documents which pass through the municipal clerk's office can be located at any time upon request.

A sample of a document register follows on the next page.

DOCUMENT REGISTER, Town of _____

Date Received	Received From	Document Type	Grantor	Grantee	Amount Paid	Date Paid	Date Returned	To Whom Returned	How Returned

C. MAPS AND PLATS

Maps and plats exist for different purposes and are addressed in several statutes.

1. Highway Maps. Annually, the Agency of Transportation (VTrans) and the selectboard review the description and classification of the class 1, 2 and 3 highways and designate special areas which are throughways or scenic highways. This information is then filed in the clerk's office. When changes are made throughout the years, those changes must also be filed in the clerk's office. Upon request, VTrans will provide each town with a highway map. 19 V.S.A. § 305.

Many towns have produced copies of the local highway maps to assist emergency response teams. There is no requirement that this be done. However, if such maps are provided, they must be limited to being "just a road map," and may not reveal locatable addresses of individuals. This is due to the confidentiality provision in the E-911 law. 30 V.S.A. § 7059.

2. Tax Maps. The director of the Division of Property Valuation and Review (PVR) shall, "consistent with available resources," supply each town clerk and board of listers with updated orthophotographic maps of the town. Such maps are public documents and must be available for public inspection in the clerk's office without charge. However, a person must have written authorization of the director in order to copy such maps. 32 V.S.A. § 3409. In order that there be two complete sets of each town's tax information, the clerk must provide the director with one copy of the town's grand list, so that both the town and PVR have copies of both the map and the grand list. 32 V.S.A. § 3410.

3. Official Maps. The planning and zoning statutes refer to the town's "official map." The first reference is in 24 V.S.A. § 4401 (b)(3), which says that an "official map" may be adopted and amended by the municipality as a type of bylaw. The second reference, 24 V.S.A. § 4422, provides that where questions arise as to the accuracy of any part of the official map, the selectboard shall have a survey prepared and may, by resolution, adopt such survey as part of the "official map."

After the official map has been approved, it may be modified whenever there is recordation of plats approved under the planning and zoning process. 24 V.S.A. § 4423.

4. Plats. When the planning commission or the development review board has approved a plat (or the town clerk certifies that the commission or board has failed to act in a timely manner on a plat application), the plat must be filed and recorded in the town clerk's office within 90 days or it will expire. 24 V.S.A. §§ 4414-4416.

Chapter 17 of Title 27 of the *Vermont Statutes Annotated* requires that:

- Town clerks accept, file, maintain and index survey plats which meet the statutory standards; and

- Follow the guidelines set by the commissioner of Buildings and General Services regarding the preservation of such surveys.

If a plat does not meet the standards set out in the statutes and it does not meet one of the exceptions to those standards, the clerk shall not accept it. 27 V.S.A. §§ 1404-1406.

Land plats shall be indexed in such manner as the public records director shall prescribe by rule. 24 V.S.A. § 1161 (a). Although these rules apply only to “official plats” accepted in accordance with 27 V.S.A. § 1403, it is advisable to develop an index and filing system for all plats and maps which are filed or recorded with the town clerk.

Under the rules, the clerk shall assign a number to each plat or plan received. These numbers shall be consecutive in the order received, and shall then serve as an identification and locator number. The plats and plans shall then be indexed by book, card or visible or rotating adaptation thereto, and be called “The Index of Land Plats and Plans.” The index shall include:

- the location of the land (map title);
- the date of compilation;
- the date of filing;
- the assigned location (book, page);
- the assigned plat or plan number; and
- the name(s) of the record owner(s) shown on the plat or plan as of the date of compilation.

An alphabetical entry shall be made under the name of each owner with a cross-reference to all adjacent property owners, if shown. The entry should also include the map title, if other than the owner.

For further information regarding the rules, contact the State’s Public Records Division at 802-828-3280.

5. Filing of Maps. There are two acceptable methods for filing maps in a municipal clerk’s office:

- in a binder (usually 18x24 inches), and filed numerically within these books; or
- in special map cabinets whose specifications must be approved by the state public records director.

Maps should *never* be folded or creased since this kind of mishandling will result in tears and breaks, with possible loss of information along the folds. For the specifics on the composition of plats (such as the size and type of paper, type of ink, letter size, scale ratios, margin sizes, title box, indication of compass direction, etc.), see 27 V.S.A. § 1403. In some areas there are commercial services available which reduce irregular sized plats to a manageable size.

6. Reproduction. When plat sheets have been reproduced from the original, the method of reproduction must be one which has been determined to be acceptable by the

commissioner of the Department of Buildings and General Services. 27 V.S.A. § 1403 (b)(8). Acceptable methods are:

- wash off process on mylar;
- fixed line photographic process on mylar; and
- original ink drawing on mylar or linen (ink must be pigment-based, *not* water-based).

Important points to keep in mind:

- Certification of the type of process used shall appear on the margin of the binder edge of the plat, parallel to the binding edge.
- Maps shall not be accepted if any part is attached or glued to its surface.
- The legibility of all data shall be beyond question.
- Diazo reproductions are not acceptable.
- Ink-jet plats are not acceptable. According to Hewlett Packard, the ink-jet-on-mylar process has an estimated life of only 20 years.

D. DEEDS AND CONVEYANCES

Deed: “A written instrument by which land is conveyed.... At common law, any written instrument that is signed, sealed and delivered and that conveys some interest in property.” *Black’s Law Dictionary*, 7th ed. The essential difference between a deed and a will is that a deed transfers a present interest in property, while a will passes no interest until after the death of the maker. Generally, a deed transfers ownership of land from one owner or seller (the grantor) to a new owner (the grantee). A deed is a conveyance of real estate, not personal property or intangibles. There are many types of deeds. The most commonly encountered are quit-claim, mortgage, warranty, and tax collector’s.

Conveyance: An instrument in writing, by which some interest in lands is transferred from one person to another, such as a warranty or a quit-claim deed.

Instrument: A legal document or writing which gives formal expression to a legal act or agreement, for the purpose of creating, securing, modifying, or terminating a right such as a deed, a contract, a will, or a check. It may record a legal right, transfer money or property, or serve as written evidence of a transaction.

Fiduciary Relationship: A relationship in which one person is under a duty to act for the benefit of another on matters within the scope of the relationship, for example: trustee-beneficiary, guardian-ward, agent-principle, and attorney-client. Although the fiduciary has authority to transfer title, he/she does not have title or any other interest in the property that they are conveying. The commonest occurrence is probably that of an executor transferring title to property as part of an estate. Municipal clerks will also see transfers of title by administrators, conservators, and guardians.

1. General Requirements: Deeds or other conveyances of land(s), or of an estate or interest therein, shall be signed by the party granting the same and by one or more witnesses and acknowledged by the grantor before a municipal clerk, notary public,

master, county clerk or judge or register of probate and must also be recorded at length in the clerk's office of the municipality where the lands are located. Acknowledgment before a notary public shall be valid without an official seal being affixed to his or her signature. 27 V.S.A. § 341(a).

A deed or other conveyance of land that includes a reference to a survey prepared or revised after July 1, 1988, may be recorded only if it is accompanied by the survey to which it refers or cites the volume and page in the land records showing where the survey has previously been recorded. 27 V.S.A. § 341(b).

A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if an adequate notice or memorandum of the lease is recorded in the town records. An adequate notice must contain at least the names and addresses of the parties, the rights of the parties to extend or renew the lease, the date of execution, the term with dates of commencement and termination, a description of the property, rights of a party to purchase or to exercise a first right of refusal, any restrictions on assignment of the lease and the location of the original lease. 27 V.S.A. § 341 (c).

2. Acknowledgments and Oaths: A municipal clerk may take acknowledgments of deeds and other instruments throughout his or her county. In his or her county, the clerk may administer oaths in all cases where an oath is required. 24 V.S.A. § 1160.

3. Records to be Kept Relating to Deeds and Mortgages. Within 30 days after the receipt of a property transfer tax return or payment of a property, the clerk must file it in the town office and send one copy to the commissioner, along with the amount of tax paid. (Copies of these returns in the custody of the clerk are open to the public. 32 V.S.A. § 9610.) On each April 1st, the clerk must furnish to the listers a copy of the property tax returns relating to deeds which were filed for record during the year ending March 31st. Alternatively, the listers may request in writing that they be provided with the information on a monthly basis. Willful failure of a town clerk to provide this information may result in a fine. 32 V.S.A. § 3485.

Unless a deed, mortgage or other conveyance is acknowledged and recorded, it "shall not be effectual to hold such land against any person but the grantor and his [or her] heirs." 27 V.S.A. § 342. All instruments of conveyance of property should be recorded as soon as possible in order to protect the interests of the parties.

4. Correction of Record. When a municipal clerk discovers errors in the records that he, she or a predecessor made, the correction should be initialed and dated at the time of the correction. The only restriction is that clerks cannot return to correct errors made in the past, after their term of office has expired. 32 V.S.A. § 3485, annotation 1.

5. Name change. Any person owning or having an interest in real estate whose name has been changed, or any corporation which has been merged into or consolidated with another corporation, may file a certificate of name change with the clerk in the town in

which the real estate is located. Such certificate shall provide the names before and after the change, merger or consolidation. The clerk shall record and index the certificate in the land records. 27 V.S.A. § 350. A sample Certificate of Name Change follows:

CERTIFICATE OF NAME CHANGE

I, _____, of _____ (Town) in the County of _____, in the State of Vermont, swear that this is my legal name. I have an interest in real estate under the name of _____.

The property affected by my name change is described in an instrument recorded in the land records of _____(town) at Volume ____, Page ____.

Signed and dated this ___ day of _____, 20__.

Witness:

=====

State of Vermont, County of _____.

At _____ (town) this ___ day of _____,20__, personally appeared before me _____, who acknowledged that signing this certificate to be his or her free act and deed.

Notary Public

My commission expires _____

6. Deeds.

a. Mortgage Deed. When a property owner borrows money and gives an interest in that property as security for the loan, a mortgage deed is created. This is a conditional transfer of title with the lender having an interest in the property until the condition (repayment of the loan) is satisfied. The borrower is also referred to as the mortgagor, transferor, owner, obligor, or *grantor*). The lender is also referred to as the mortgagee, transferee, bank, secured party, or *grantee*).

b. Warranty Deed. The legal document by which ownership of land is transferred by sale of the property from one owner to a new owner is a *warranty deed*, sometimes called a *general warranty deed*. The seller (*grantor*) (1) transfers his or her ownership of title to the property, and (2) legally agrees to defend the validity of that title forever for the benefit of the purchaser. A warranty deed gives the buyer the right to collect from the seller if anyone subsequently establishes a claim or encumbrance against the property.

c. Quitclaim Deed. A quitclaim deed transfers only such rights of title and ownership title or ownership as the seller (*grantor*) had at the time the deed was delivered. Under a quitclaim deed, it is the responsibility of the purchaser to research whether there are any claims or encumbrances against the property. A quitclaim deed does not give the right to go back against the seller as a warranty deed does. The person conveying title or releasing his or her interest in the property is indexed as the *grantor*, and the person receiving title is indexed as the *grantee*.

7. Deed Variations.

a. Corporate Deed. A corporate deed is indexed by the name of the corporation as the *grantor* or *grantee* and not by the name of the officer or agent who executed the deed on behalf of the corporation.

b. Refusing to Record a Deed. State statute prohibits a clerk from recording or receiving for recording any deed which is submitted without (1) evidence of payment of any property transfer tax owed, and (2) a certificate of compliance with 10 V.S.A. Chapter 151 (State Land Use Law or Act 250). 32 V.S.A. § 9608.

When a deed or other conveyance of land includes a reference to a survey prepared or revised after July 1, 1988, the clerk may refuse to file it unless it is accompanied by a copy of the survey or cites the book and page in the land records showing where the survey has been previously recorded. 27 V.S.A. § 341(b).

In addition, the clerk may refuse to record documents unless the proper fees are paid.

c. Corrective Deed. Clerks may correct errors they have made in filing. However, they do not have the authority to change any errors which were made by others, such as attorneys, mortgage holders, etc. Such an error or omission must be made by a

corrective filing, so there is a complete record of the documents filed and the dates on which they were filed. Such corrective deeds must be indexed as is any other recorded deed.

d. Rights of Married Women, Name on Deed. When a conveyance of real estate is made by a married woman and such real estate was acquired by her under a name other than her present married name, such conveyance shall set forth both her present married name and the name under which such real estate was acquired. Such conveyance shall be indexed by a municipal or county clerk receiving the same for record under both her present married name and the name under which such real estate was acquired. However, a deed which fails to describe the grantor, shall not impair the grantee's title conveyed by such deed. 15 V.S.A. § 65.

A person or corporation may file a certificate of name change with the clerk's office under authority of 27 V.S.A. § 350. However, if the clerk subsequently receives a deed for recording that refers to both the prior name and present name of the grantor, such deed should still be indexed under both names, despite the fact that a certificate of name change is also recorded in that office.

E. MORTGAGES

1. Creation of Mortgage Interest. A mortgage deed transfers conditional title from the owner/mortgagor to the secured party/mortgagee. The mortgage title is transferred to the mortgagee by either of two instruments: a mortgage deed or a deed of trust.

a. Mortgage Deed. This deed is the regular mortgage document. There are many types of mortgage deeds, such as conventional, open-end, construction, Farmers' Home Administration (FHA), Veterans' Administration (VA) or demand. The type of mortgage does not affect the manner in which it is recorded and indexed. Do not index under the names of co-makers or guarantors who do not appear in the granting clause of the document. The names of the owners/borrowers/mortgagors should be indexed as grantors, and the name of the lender/secured party/mortgagee should be indexed as grantee.

b. Deed of Trust. This is a deed which conveys title to real property to a trustee as security until the borrower/grantor can repay the loan. These, or other lengthy and complicated terms of the trust, do not affect the indexing or recording procedure. The municipal clerk records the deed of trust and indexes it under the grantee (trustee) and the grantor (borrower). It should not be indexed under the name of the beneficiary of the trust, if one is named.

2. Change in Status or Terms of Mortgage. When a mortgage deed has been executed and recorded, it establishes an interest in that particular property until action is taken to change that status. Types of actions which might be taken are subordination, modification, assumption, assignment, release of mortgage, partial release of mortgage, discharge after 17 years, and undischarged mortgage after 60 years.

a. Subordination. This is an agreement by a mortgagee that its mortgage is subordinated in favor of another specific instrument. There are two methods by which this can be indexed. First, the mortgagee is indexed as grantor, and *both* the mortgagor and the party in whose favor the subordination is made are indexed as grantee. The second method is to index the party in whom subordination is made as grantee and *not* to index the name of the mortgagor-owner of the property. One of these two methods should be employed on a regular basis to ensure consistency.

b. Modification. As a result of an agreement, a mortgage may be changed. The purpose is usually to alter one or more of the repayment terms. The new document should be indexed by grantor and grantee just as any other mortgage agreement.

c. Assumption. A mortgage is generally assumed as part consideration for a conveyance, and the recitation of the assumption agreement is contained within the deed to the new owner. The assumption does not alter the relationship between the original mortgagor and mortgagee unless the original mortgagor has been released from his/her own obligation on the mortgage note. This action does not require any indexing procedure unless it is requested that a marginal notation be made on the recorded mortgage.

d. Assignment. As the result of an assignment action (a transfer of the mortgage interest from the mortgagee to a purchaser of the mortgage) index the mortgagee-lender/secured party as grantor, and the name of the assignee as grantee. Do *not* index the name of the mortgagor. Make a marginal note on the recorded mortgage deed.

e. Partial Release of Mortgage. Mortgages are partially released, or the operation of a mortgage is terminated as to a portion of the property described in a mortgage deed, usually by a quit-claim deed from the mortgagee to the mortgagor, describing the property which is now free of the mortgage interest. The releaser (mortgagee) is the grantor; the releasee (mortgagor) is the grantee, and should be indexed in this way. Again, marginal notation must be made on the page where the mortgage is recorded.

3. Foreclosure of Mortgage. A foreclosure of mortgage is a legal proceeding that extinguishes a mortgagor's right of redeeming mortgaged property. If the mortgagor falls behind in payments, the foreclosure ends the owner's rights in the property and sells the property to pay off the mortgage debt. In most states this is done by a lawsuit. The plaintiff must file a copy of the complaint in the municipal clerk's office in each town where the mortgaged property is located. The clerk of the municipality shall note on the margin of the record of the mortgage that a copy of foreclosure proceedings on the mortgage is filed. The filing shall be sufficient notice of the pendency of the action to all persons who acquire any interest or lien on the mortgaged premises between the dates of filing the copy of foreclosure and the recording of the final judgment in the proceedings. Without further notice or service, those persons shall be bound by the judgment entered

in the cause and be foreclosed from all rights or equity in the premises as completely as though they had been parties in the original action. 12 V.S.A. § 4523 (b).

a. Deed in Lieu of Foreclosure. On occasion a property owner, when threatened with foreclosure, will concede his or her inability to satisfy his or her mortgage and will voluntarily transfer his or her interests to his/her lender in full or partial satisfaction of the mortgage debt. This is accomplished by quit-claim deed from the owner/mortgagor to the lender/mortgagee. The clerk should index the owner/releaser as grantor and the lender/releasee as grantee. There will not be a release of mortgage.

b. Strict Foreclosure. This is a rare procedure that allows transfer of ownership of a mortgaged property to the mortgagee automatically upon failure of the mortgagor to pay the debt within a court-specified period of time. There is no formal sale of the property required. (*Black's Law Dictionary*, 7th ed.)

4. Discharge of Mortgage. Mortgages may be discharged by one of the following three methods:

- By entry on the margin of the record thereof in the land records, signed by the mortgagee or his/her agent acting under power of attorney, and witnessed by the town clerk or assistant town clerk. 27 V.S.A. § 461.
- By acknowledgement of payment by the mortgagee or his/her agent acting under power of attorney, acknowledging payment thereof by an entry on the mortgage deed, signed in the presence of one or more witnesses. 27 V.S.A. § 462.
- By separate instrument executed by the mortgagee or his or her agent which shall be substantially as follows: *“I hereby certify that the following described mortgage is paid in full and satisfied, viz: _____ mortgagor to _____ mortgagee, dated _____, 20____, and recorded in book ____, page ____, of the land records of the Town of _____.”* When signed, witnessed by one or more witnesses, acknowledged and recorded in the land records, it shall discharge the mortgage. 27 V.S.A. § 463. Such record must be indexed, so that title searches will reveal that the mortgage has been discharged.

The recent merger of banks and other financial institutions has created a situation where the notice of mortgage discharge that the clerk receives may not have the name of the institution which issued the original mortgage. In fact, the original institution may be buried in a web of multiple takeovers, which can be confusing, especially where out-of-state institutions are involved. In addition, in some takeovers, not all of the branches of a bank are absorbed into the new parent company. The Federal Deposit Insurance Corporation (FDIC) can help identify the “family tree” of financial institutions. Visit its website at www.fdic.gov. Failing that, contact the Vermont Department of Banking, Insurance and Securities for help in identifying the original mortgage holder. Its telephone number is 802-828-3301, its fax number is 802-828-3306 and its website is www.state.vt.us/bis/.

5. Effect of Delinquent Tax Sale. When the town’s collector of delinquent taxes sells a property for taxes and the owner does not redeem the property, the collector should then issue a “Tax Collector’s Deed” conveying the land to the purchaser. 32 V.S.A. § 5261. This deed will extinguish all mortgages and liens on the property held by people who hold claim under the delinquent taxpayer. The new deed must be indexed under the grantor and grantee.

F. PROBATE MATTERS

1. Decedents’ Estates. The executor of the will or the administrator of the estate of any deceased person who, at the time of his or her death, was the owner of any real estate situated in the state or any interest in a mortgage or lien on real estate located there, shall, within two months after becoming qualified to act, lodge with the municipal clerk of each town where the real estate is located, his or her certificate in writing stating the fact and date of the death of the decedent, the place where he or she last dwelt and whether such decedent left a will, which certificate shall be recorded in the land records of the town. It is recommended that the fiduciary’s certificate be *cross*-indexed under the name of the decedent, and that the name of the executor or administrator *not* be indexed.

2. Conservators. A managing conservator is a person appointed by a court to manage the estate or affairs of someone who is legally incapable of doing so. The conservator or guardian for any person who owns real estate must record a certificate regarding his or her appointment in the land records of each town where such real estate is located. It is recommended that the name of the incapable person (ward) be indexed as grantor and the name of the conservator as grantee.

3. Decree of Distribution. Upon the distribution of real property from the estate of a deceased person, the fiduciary must record a certificate in the land records which contains the names and addresses of the distributees and a description of the interest or property so distributed. The certificate is issued by the probate court and signed by either the probate judge, clerk or assistant clerk. The certificate should be indexed by grantor (the deceased property owner) and the grantee (person to whom the property was distributed).

G. ATTACHMENTS AND LIENS

Attachments and liens are legal mechanisms that may be used to seize another’s property, or an interest in their property, in order to collect or secure a debt owed by him or her. One of the liens most familiar to municipalities is the automatic tax lien against real property when property taxes become delinquent. Another lien that involves municipalities is the tax lien against personal property, which goes into effect only when the tax collector actually files a lien for delinquent taxes.

A lien creates an interest in the property in favor of the person who is owed a debt. If the owner of the property attempts to sell, a search of the town’s property records should reveal the presence of the lien, informing prospective buyers that there is a pre-existing

claim against the property which must be cleared in order for the owner to convey the property with clear title.

An attachment is the seizure of a person's property to secure a judgment or to be sold in order to satisfy a judgment. The attachment creates an interest in property but, in contrast to a lien, it occurs only as a result of a court proceeding and order.

Some liens, such as the town's tax lien on real property, are automatic. Others must be filed with the town clerk by the creditor, or may be the result of a court judgment. *Black's Law Dictionary* has 62 different listings under "lien" and several more under "attachment." Fortunately, all types of liens and attachments are filed, recorded and indexed in a similar manner. They should be indexed under the grantor (person who owns the property and owes a debt) and the grantee (the person who now has an interest in the property because of the outstanding debt owed to him or her).

Municipal clerks should keep a separate book for recording liens. Each entry should include a brief statement recording the substance of the lien. The record book should be indexed alphabetically by the property owner. The notices of liens are then filed chronologically in a separate lien file. Tax liens affecting title to real property should also be noted in the grantor-grantee index of the general land records. If the town uses a copier for recording deeds and other documents, a copy of the lien may be placed in the lien book instead of recording the substance.

Liens and attachments may be discharged under various provisions of law. Notice of the discharge may come from (1) the commissioner of taxes saying that the taxes have been paid, (2) the court stating that an action has been dismissed or judgment given for the party whose property was attached (12 V.S.A. § 3293), or (3) the town's collector of delinquent taxes saying that the taxes have been paid or the property sold at tax sale. The notice of discharge is filed by the clerk with the original attachment or lien, and the discharge is noted in the record book where the attachment was recorded. In the case of real estate attachments, it must also be noted in the general index.

1. Books for Writs of Attachment. When a copy of a writ of attachment upon which personal property is attached is lodged in the office of a municipal clerk, the clerk shall enter in a book to be kept by him or her the names of the parties in alphabetical order, the date of the writ, the time when and the court to which the same is returnable and the amount demanded. 12 V.S.A. § 3251-3252; 24 V.S.A. § 1163.

When a copy of a writ of attachment on which real property is attached is lodged in the office of the clerk, he or she shall enter in a book to be kept for the purpose the names of the parties, the date of the writ, the time when and the court to which the same is returnable, the nature of the action, the sum demanded and the officer's return thereon. 12 V.S.A. §§ 3291-3292.

In smaller towns with very little recording, one book could properly serve for both, provided the front part of the book is used for one type of property and the back part for the other. The indices must also be kept separate.

Standard size 10½x16 inch record sheets, lined and columnized for recording writs of attachment of personal property and of real property, are available. The pages should be numbered and indexed alphabetically by both defendant and plaintiff.

Following is a list of some statutes regarding various types of attachments and liens:

- Animals9 V.S.A. §§ 2071–2075
- Artisans9 V.S.A. §§ 1951–1954
- Dependent child or spousal support15 V.S.A. § 291 (f)
- Condominiums27 V.S.A. §§ 1309, 1314–1315
- Contractors9 V.S.A. §§ 1921–1928
- Federal9 V.S.A. §§ 2051–2053
- Hazardous waste generation tax32 V.S.A. § 10103
- Hospitals for services to accident victims18 V.S.A. §§ 2251–2256
- Logs for wages9 V.S.A. §§ 1991–1993
- Lumber products9 V.S.A. §§ 2011–2014
- Medicaid33 V.S.A. § 1910
- Milk producers6 V.S.A. §§ 2901–2905
- Property tax32 V.S.A. § 5895
- Sewage charges24 V.S.A. §§ 3504, 3612
- Ships for labor and material9 V.S.A. §§ 2031–2032
- Wages9 V.S.A. §§ 1971–1972
- Water and sewer disconnect24 V.S.A. § 5149
- Workers compensation21 V.S.A. § 687 (c).

2. Release and Discharge of Attachment Liens. When the conditions of an attachment are fulfilled, the party in whose favor it was made may have the lien discharged. Or any person having title or an interest in the property may obtain a certificate from the court stating that the debt has been discharged and may file such certificate with the town clerk. When filing the certificate of discharge of attachment, the clerk should record “Discharged by the municipal clerk per court’s certificate on file” and collect a fee of \$4.00 for discharging the attachment. 12 V.S.A. § 3293. This notice of discharge is filed by the clerk with the original attachment or lien, and the discharge is noted in the record book where the attachment was recorded. In the case of real estate attachments, it should also be noted in the general index.

3. Assignment of Future Earnings; Validity as Against Trustee Process. An assignment of future earnings (attachment of wages) shall not be valid against trustee process unless executed in writing and made to secure a debt of an amount therein stated, contracted prior to or simultaneously with the execution of the assignment, or a debt for necessities to be thereafter furnished to the debtor to the amount therein stated. Such

assignment shall not be valid as to such trustee process unless it is recorded, before the service of the writ upon the alleged trustee:

- a. in the office of the clerk of the town wherein the assignor resides, if he or she is a resident of this state, otherwise in the office of the clerk of the town wherein the employer of such assignor resides;
- b. in the office of the clerk of the town wherein the principal place of business of such employer is located, if such assignor is a non-resident and his or her employer is a resident corporation, partnership or association; or
- c. in the office of the Secretary of State, if the assignor is a non-resident and his/her employer is a non-resident individual, corporation, partnership or association authorized to do business in this state.

12 V.S.A. § 3022.

H. FEES FOR LAND RECORD RESEARCH

Many clerks are asked to do title searches. We recommend that you *not* get involved with this for reasons of liability. Lawyers must be responsible for their own title searches. A clerk may charge \$2.00 per hour for the examination of the town's municipal records or public records by others. "For examination of records by a municipal clerk, a fee of \$5.00 per hour may be charged, but not more than \$25.00 for each examination on any one calendar day." 32 V.S.A. § 1671(3)(4).

I. RECORDING CURRENT USE TAXATION PROGRAM DOCUMENTS

Use Value Appraisal of Agricultural and Forest Lands, or the "Current Use Program" (32 V.S.A., Chapter 124), was designed to help maintain productive agricultural and forest land. Landowners who wish to participate apply to the director of Property Valuation and Review. If they are eligible, their land can be appraised at use value instead of at fair market value. The property owner is then taxed on the use value only and the state makes up the difference between that and the fair market value. Thus the property tax revenues the town "loses" through this program are paid by the state at an amount that will not exceed 5% of the highest use value per acre.

Listers and assessors play the major role for municipalities with the Current Use Program, but town clerks may receive certain documents to file or record. If a property is accepted into the program at its use value, the clerk files that information in the town's land records. 32 V.S.A. § 3756 (e). Property Valuation and Review recommends, as a general policy, that clerks keep all landowner guides, applications, maps, management plans, conformance reports, and other current-use information in one file, and make it available to the listers. Clerks who also serve as town treasurers and/or tax collectors will also have to send out tax bills and collect taxes according to the current use scheme.

J. RECORDING HAZARDOUS WASTE SITES

When the Agency of Environmental Conservation determines that an uncontrolled hazardous waste site is a health or environmental hazard and is to be regulated by the agency, it notifies the municipality in which the site is located. The notice includes the location of the site, the waste involved, the actions proposed to be taken by the state, and the location of the pertinent records kept by the state. Notice will also be provided when it is determined that the site is no longer a hazard. The municipal clerk must record such notices in accord with 24 V.S.A. § 1154. 10 V.S.A. § 6608(d). The normal land record recording fee of \$6.00 per page should be charged to the Agency of Natural Resources.

VIII. VITAL RECORDS

Vital records refer to certificates of birth, marriage, civil union, divorce, death, and fetal death. Certificate forms are available from the Vermont Department of Health. 18 V.S.A. § 5001. The municipal clerk, as the local registrar of vital records, is responsible for the proper filing, indexing and storage of all vital records to assure their accessibility and preservation. Alphabetical indexes of marriages and civil unions must be maintained as well as a single index of births and deaths. 18 V.S.A. §§ 5012-5013. Certificates shall be stored in a fireproof vault or safe. 18 V.S.A. § 5007. The clerk must also send copies of certificates to the Department of Health or to other municipalities, as mandated by 18 V.S.A. §§ 5009-5010. Failure to do so may result in fines. 18 V.S.A. § 5011. The state statutes concerning vital statistics can be found in 18 V.S.A. Chapter 101.

The clerk may compile, and the auditors may publish, a transcript of the town's vital records in the town's annual report. 18 V.S.A. § 5006.

Vital records for unorganized towns and gores are the responsibility of the county clerk. 18 V.S.A. § 5005.

The central collection of vital statistics was provided for by the General Assembly in 1856. Little or no enforcement of that provision, coupled with a failure to protect the records which were collected from hazards such as fire and water, has resulted in incomplete information from those earlier years. Statewide supervision of vital records was given to the Vermont Department of Health in 1886.

General questions concerning vital records should be directed to:

Vermont Department of Health
Vital Records Unit
108 Cherry Street
PO Box 70
Burlington, VT 05402
(800-439-5008 or 802-863-7275, phone; 802-651-1787, fax)

The State Division of Public Records is charged with the responsibility for final filing and preservation of the data. 18 V.S.A. § 5002. The Health Department keeps ten years of records. Annually it turns over the originals or photocopies of older records to the Division of Public Records, which stores them so that they are available for public use. 18 V.S.A. 5002. Consult the Public Records Division on matters of physical safety and preservation of vital records.

Vermont Dept. of Buildings and General Services
Division of Public Records
Route 2, Drawer 33
Middlesex, VT 05633-7601
(802-828-2794, phone; 802-828-3710, fax)

All municipal clerks should have a copy of the *Vital Records Instruction Manual*, which is prepared by the Department of Health. It provides detailed information concerning the clerk's duties and responsibilities regarding vital records and should be consulted regularly. The manual is updated periodically. Personnel in the Vital Records Division are available to answer any questions.

IX. MISCELLANEOUS RECORDS

A. UNIFORM COMMERCIAL CODE (UCC).

The recording of a Uniform Commercial Code instrument (UCC) is essentially a notification of a loan or a public statement of debt. *Never* is the amount of money that the UCC represents included in any part of the filing procedure, because that information is confidential. UCCs are filed and kept on record in the Secretary of State's office and, in certain instances, in the municipal clerk's office. 9A V.S.A. § 9-401.

1. Financing Statement – UCC-1 Forms. On receiving a Financing Statement (UCC-1), check to be sure that signatures of both the debtor and the secured party appear. Then, in the block in the upper right corner, fill in the date, time, file number and filing office. Use the next consecutive file number. Every new calendar year begins with the last two digits of the year as the prefix for a new number series. For example, in the year 2000, start with 00-1, 00-2, etc., and in 2001 start with 01-1, 01-2.

Fill out an index card using the proper color for the year in which the UCC is received. When you fill in the collateral space, make certain you use the correct category. For example, don't use "cattle" if it should be "crops." Where there is more than one debtor, make out an index card for each and file the cards in alphabetical order.

File the original Financing Statement numerically. The second copy may be used to keep track of fees, etc. Return the third copy (Acknowledgment), as well as the secured party's and debtor's copies, to the secured party.

2. UCC-3 Forms. UCC-3 forms can be used for continuations, partial release, release, amendments, assignments and terminations.

In the case of receipt of a partial release, release, amendment, assignment or termination, mark the original index card with the date of the receipt in the appropriate block (AM block for amendment, RL block for partial release or release; ASSIGNMENT block for assignment, or TERM block for terminations). Make other notations as required.

A “release” is not the same as a “termination.” Therefore, do not pull the Financing Statement on receipt of a “release.” Record the information on the index card and staple the release to the front of the Financing Statement.

On receipt of a continuation statement, mark in the upper left corner the fee received. Check to see if the file number is given and, if it is not, return the form. In the space provided (right corner) date and hour-stamp the form and indicate the name of the filing office. **Do not assign a new file number**, as this will just create more work later on.

Pull out the original index card, make out a new index card using the correct color card for the year the continuation statement is received. Use all the information on the original index card and mark in the CT block the date the continuation was received. **Destroy the original index card.**

Staple the UCC-3 continuation original to the front of the original Financing Statement and refile in numerical order. The second copy of the continuation form may be used to account for your fees, etc. Return the third copy to the secured party.

3. Terminations. When you receive the pink copy of the UCC-1 form or a UCC-3 form that is used for termination, date and time-stamp it; note the information on the index card(s); pull the original Financing Statement and all other papers with that file number; mark them **terminated** and return to the secured party. File the termination statement in the place of the original Financing Statement. This will be pulled when the files are purged.

4. UCC Filing Fees. The following table lists fees which clerks shall charge for filing UCCs. It is taken from an information bulletin prepared by the Director of the Vermont Agency of Administration’s Division of Public Records.

DUTY	FEE	V.S.A. Ref. 9A
a. Filing, indexing and furnishing data for an original Financing Statement. ^{1 2}	\$10.00	9-403(5)
b. Filing, indexing and furnishing filing data for a Financing Statement so indicating assignment. ^{1 2}	\$10.00	9-405(1)

c. Filing, indexing and furnishing data for an amendment to a Financing Statement. ^{1 2 3}	\$10.00	9-402(4) 9-403(5)
d. Filing, indexing and furnishing filing data for a Continuation Statement. ^{1 2 3}	\$10.00	9-403(5)
e. Filing, indexing and furnishing filing data about a separate statement of assignment. ^{1 2}	\$10.00	9-405(2)
f. Filing and noting a statement of release of collateral ^{1 2}	\$10.00	9-406
g. Filing and indexing a termination statement from a secured party, including sending or delivering the Financing Statement.	None	9-404(3)
h. Filing and indexing a termination statement from other than the secured party of record. ^{1 2}	\$10.00	9-404(1) 9-405(2)
i. Furnishing a certificate of information on any Financing Statement or Statement of Assignment for a particular (single) debtor, plus \$.50 for each Financing Statement and each assignment filed. ^{1 2}	\$10.00+	9-407(2)
j. For furnishing a copy of any filed Financing Statement or Statement of Assignment, \$2.00 per page. (If the Financing Statement or page attached to it is more than 5x8 inches, the fee per page is \$5.00.)	\$10.00+	9-407(2)

Footnote Key

- 1 If a financing statement is in non-standard form, the basic charge is \$15.00.
- 2 For each additional name above the one required to be indexed, the fee is \$2.00. For purposes of these fees, names of husband and wife shall be considered one name, and the name of a partnership together with the names of up to two partners shall be considered one name. 9A V.S.A. § 9-403(5).
- 3 Financing statement is subject to Subsection (5) of Section 9-402. Add \$6.00 per page. 9A V.S.A. § 9-403 (5).

5. Purging the UCC files. The following is also taken directly from the informational bulletin prepared by Public Records.

In March of 1988, you can destroy many of the Financing Statements and supporting papers for the year 1982 and before. First go the debtor's index cards, examine and pull all 1982 index (cherry) cards (except the ones showing a continuation statement is in effect).

If an index card is pulled with two or more debtors on it, immediately locate each additional debtor's card and staple them together, so all cards for a particular Financing Statement will be together.

Next, go to the Financing Statement file and pull the Financial Statement and supporting papers that correspond to each index card by number and/or name. Staple each statement with its supporting papers, if any, to its proper index card.

Third, before destruction, recheck all Financial Statements and supporting papers to see that no continuation statement was filed but failed to appear on the index card. If one is found, fill out a new index card, as explained in the example below, and refile the Financing Statement.

Finally, pull the remaining cherry index cards, if any, that show continuation statements have been filed, and retype all the data from each cherry card on to the colored index card being used for the year the continuation statement was received. Destroy the cherry index card and file the new cards alphabetically.

Example: A cherry index card showing that a continuation statement was received in 1980 should be retyped onto a green card index card and the green card filed. Thus, there are no colored cards signifying two different years in the index at one time.

UCC Card Color Schedule

1996	Green	2000	Buff
1997	Chocolate	2001	Salmon
1998	Cherry	2002	Blue
1999	White	2003	Canary

6. Requests for Information Form (UCC-11). On receipt of a request for information about Financing Statements (UCC-11), fill in the date, time and filing office. List any Financing Statements shown outstanding against the debtor and make copies of them if requested. Fees for this service are:

- certificate \$10.00
- copy of Financing Statement or assignment \$2.00
- each copy of a Financing Statement or assignment larger than 5x8 inches \$5.00

B. FENCE VIEWERS

The duty of the fence viewers is simply to examine fences and other boundaries within the town when requested to do so by the selectboard or by property owners. After inspection of the fence (or lack of fence) or of the property boundary, the fence viewers must file a statement of their findings with the municipal clerk, who shall record it. An agreement between two landowners regarding their division fence may also be recorded. 24 V.S.A. §§ 3810-3812.

C. VERMONT MOBILE HOME BILL OF SALE

All sales of mobile homes must be accompanied by a Vermont Mobile Home Uniform Bill of Sale. The purpose of this law is to ensure that all mobile home sales will be made and recorded in the same manner.

The Uniform Bill of Sale must be filed in the records of the town where the mobile home will be located. 9 V.S.A. § 2602(b) and (c). Such filing should take place within 10 days after the mobile home is moved into that town. 32 V.S.A. § 5079 (g). The filing fee is \$6.00 per page, and is paid by the new owner of the mobile home. 32 V.S.A. § 1671 (a)(6).

Taxes assessed against a mobile home shall be considered due as of the date of sale, transfer or removal of the mobile home from the town in which the mobile home was last listed. 32 V.S.A. § 5079(e). If a mobile home is sold, traded or transferred, the Uniform Bill of Sale must be endorsed by the town clerk of the town in which the mobile home was “located indicating that all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid.” A copy must be sent to the clerk of the town to which the mobile home will be moved. Anyone transporting a mobile home on state highways must have a copy of the Bill of Sale or be liable for a fine of up to \$300.00. 32 V.S.A. § 5079 (b and c); 9 V.S.A. § 2602 (b and c).

A copy of the Uniform Bill of Sale is found in 9 V.S.A. § 2602 (c).

A property transfer tax return is required to be filed when a mobile home is affixed to the land at the time of transfer of title or the recording of the transfer of title. 32 V.S.A. § 9606. If a mobile home is in a mobile home park, the property transfer tax applies even though the land is not being transferred. In addition, the Department of Taxes considers a mobile home to be realty if:

- it has been set up on blocks or otherwise stabilized so that the wheels do not form a major part of the structural support;
- it has been connected to utilities, such as electricity, sewage, water, gas or oil;
- skirting has been erected around the base of it;
- the wheels and/or tires have been removed; or
- it is situated in a place which makes its removal unlikely.

Questions about specific situations may be directed to the Department of Taxes at 802-828-2542.

D. OTHER MUNICIPAL RECORDS

The clerk is mandated to:

- Record “all proceedings of all town meetings.” 24 V.S.A. § 1152.
- Record all adopted ordinances . 24 V.S.A. § 1972 (b).

- Keep on file two or more sets of the auditors' report. 24 V.S.A. § 1174.
- Record honorable discharges from the armed forces of the United States 24 V.S.A. § 1175.
- Keep all books and manuscripts belonging to the town or town school district, except town histories, published under authority of the town. 24 V.S.A. § 1176.

In reality, the clerk frequently becomes the custodian of either the original or copies of minutes, policies, applications, permits, lists, maps, letters and many other documents which are generated by various boards and committees in the course of the town's business. No doubt, there are as many ways of filing and preserving these records as there are town clerks. So long as they are safe and accessible, the exact system used is immaterial.

X. ELECTION LAWS

There are several publications on the subject of Vermont election laws and the municipal clerks' role under those laws, including the following sources:

1. **The Election Manual** is jointly published by the Vermont Municipal Clerks' and Treasurers' Association and the Howard Bank's Municipal Services Department.
2. **Vermont Election Laws** (the pertinent chapters from Title 17 of the Vermont Statutes Annotated) was published by the Office of the Secretary of State in 1998.
3. **Election Perspectives** summarizes the laws on Vermont primary and general elections for election officials. The Secretary of State's office published an updated version of this book in July of 1998. Updates are published when there have been significant changes in the election laws as a result of new legislation.
4. **Vermont Town Meeting Handbook** is published by the Vermont League of Cities and Towns, and was most recently updated in January, 1988.

The Vermont League of Cities and Towns (802-229-9111) and the Secretary of State's Office (800-439-8683) are also available to answer questions pertaining to Vermont's election laws.

XI. TAXATION – GRAND LIST

A. INTRODUCTION

The municipal clerk and listers must work together in order to carry out the complex duties involved in property taxation. Those duties include doing appraisals, hearing grievances and appeals, developing the grand list, making adjustments and corrections to the grand list, filing and certifying data, sending out notices and serving on the board of

abatement. In addition, most of these processes are subject to deadlines which must be met.

B. INVENTORY FORMS

Each year, sometime before April 1, the state director of the Division of Property Valuation and Review (PVR) must furnish inventory forms to the municipal clerks and to the boards of appraisers of unorganized towns and gores. Those forms, to be completed by the taxpayers, provide the information needed by the listers or appraisers to appraise taxable personal and real property, and in turn to develop abstracts of individual lists and the grand list for the municipality. Listers shall obtain detailed inventory information about real and personal property only in cases where they believe such information is needed in order to ascertain the fair market value of the property. 32 V.S.A. § 4001. Taxpayers should use the inventories to list taxable property owned in town on April 1. Those owning real estate only are not required to file such inventory unless specifically requested to do so. Loss or destruction of property after April 1 does not exempt the property holder from payment of those taxes, but may be addressed through the tax abatement process set out in 24 V.S.A. §§ 1533-1537.

The general practice is for listers or clerks to distribute the inventory forms and informational booklets to taxpayers who request them and to out-of-town corporations and nonresidents for any taxable personal property located within the town. The taxpayer should receive the form by April 20 and “make and return a signed, sworn to, or affirmed inventory within 45 days after the mailing of such inventory by the town listers....” Failure to do so bars the taxpayer from any appeal under Chapters 129 and 131 of Title 32 of the *Vermont Statutes Annotated*, unless the failure was beyond the control of the taxpayer. In addition, the taxpayer may be fined not more than \$100.00 for each violation. 32 V.S.A. § 4003-4006.

Part-time businesses that do not operate for 12 consecutive months and which are not in operation on April 1 shall file their inventories with the Listers at least 15 days prior to the anticipated annual suspension of business. Within five days of that filing date, the listers shall notify the taxpayer of the appraised value of the property. 32 V.S.A. §§ 4045-4046.

Each public utility must furnish to PVR a sworn inventory of its taxable property, showing the valuation of its property in each municipality. On or before May 1, PVR shall furnish the listers of each municipality with the information concerning the valuation of such utilities’ property in the municipality. Such valuations plus any other information reasonably required by the listers may be used for the purposes of determining local taxation. 32 V.S.A. § 4452.

Completed inventories must be lodged by the listers in the municipal clerk’s office on or before June 1. They must remain there not less than three years “and shall be maintained in a manner reasonably calculated to protect the confidentiality of the information contained in [them].” 32 V.S.A. § 4007. Anyone who willfully destroys or removes an

inventory from the municipal clerk's office during that time period, "except in obedience to process," will be fined \$500.00. 32 V.S.A. § 4008.

Information contained in the inventory forms filed pursuant to 32 V.S.A. §§ 4001 and 4452 is protected, and the municipal clerk, who is the custodian of these records, cannot allow anyone to examine them except as prescribed in 32 V.S.A. § 4009. The municipal clerk shall provide certified copies of the documents to persons authorized to examine them and, when subpoenaed for that purpose, to a court. The copies, abstracts, or any data obtained from the examination of inventories shall not be disclosed in any manner that will reveal the name or identity of the person who made the inventory, except for official use. If any authorized person discloses any inventory contents, he or she can be fined up to \$100.00. 32 V.S.A. § 4009.

When a taxpayer neglects to submit an inventory or, if the listers believe that there are errors or omissions on the inventory, they shall ascertain, as best they can, the fair market value of the taxable property of that person. That amount shall be the basis for developing the grand list for that taxpayer. However, the listers must notify the taxpayer of changes in the estimated value of the property on or before 14 days from the date fixed by law for lodging completed abstracts of individual lists in the municipal clerk's office. This notice can be sent by certified mail, be delivered personally, left at the taxpayer's usual abode if he or she is a resident of the town, or mailed to the last known residence. Notices to corporations must be delivered personally, or by registered or certified mail, to the certified officer whose duty it is to make the inventory. 32 V.S.A. §§ 4084-4085.

Occasionally a taxpayer will omit a piece of property from an inventory, or even fail to file a form altogether. If the listers learn of such omission prior to December 15, they shall notify the taxpayer in writing. If there is no response from the taxpayer within ten days, the listers act as provided for in 32 V.S.A. § 4084. The taxpayer must also be notified of the change in his or her tax appraisal at least 14 days prior to the next grievance hearing, as well as of the date, time and place of the hearing. 32 V.S.A. §§ 4086-4087.

C. PROPERTY TRANSFER TAX RETURNS

On April 1 of each year, the clerk shall furnish the listers with copies of all property transfer tax returns relating to deeds which were filed for record in the year ending on April 1. The listers may make a special written request to the clerk that they be provided with those records on a monthly basis throughout the year, on or before the 15th day of each month. For more information on land records, see Chapter VII of this handbook. Failure of the clerk to provide the necessary copies to the listers will result in a fine of \$10 for each offense. 32 V.S.A. § 3485.

Regardless of which system – yearly or monthly – the listers employ, they shall appraise property at its fair market value and list it to its owner as of April 1 each year. If the listers determine that expert advice or assistance is needed in making an appraisal, they may, with approval of the selectboard or by vote of the town, get help. 32 V.S.A. § 4041.

D. TAX MAPPING

Historically, the acreage of parcels has been determined through a combination of deed records and rather informal agreement. More recently, some parcels have been surveyed and thus are more accurately defined. Vermont Base Map orthophoto sheets, which are aerial photos that have been corrected so that they are accurate for determining distance and acreage, are now available for each municipality in Vermont.

The state recommends that tax mapping be done a year or two in advance of reappraisal. That way, land owners can be notified of any change in acreage and can come in to examine the maps and decide if they should appeal their new listing/appraisal. Tax maps are not as accurate as individual surveys, but they are good tools for determining acreage.

For more information, see pages 33-34 of *The Vermont Lister's Handbook*, published by the Vermont Department of Taxes PVR Division (1999). Or, contact the Vermont Mapping Program, 43½ Randall Street, Waterbury, VT 05676 (telephone 802-241-3507).

There are a number of dates and deadlines in the various statutes regarding the grand list, notice, hearings, etc. Many of these dates are extended under the provisions of 32 V.S.A. § 4341. In addition, the town may request an extension of the date under 32 V.S.A. § 4342. Always consult those statutes when considering which deadline applies in your town. A Listers' Calendar that summarizes these dates is provided on page 61 of this handbook.

E. INDIVIDUAL LISTS

An individual's list or grand list is essentially a synopsis of that person's real and personal property, being 1% of the listed value of their taxable real and personal estates. 32 V.S.A. § 4082. This determines the share of the town taxes that individual will be responsible for.

On or before May 5 (or the date set in 32 V.S.A. § 4341), the book of abstracts of individual lists must be open for inspection by the taxpayers in the clerk's office. The clerk shall document the time when the book was lodged in the office.

The book shall contain a certificate, signed by the listers, affirming that they believe the information contained therein is complete and accurate, and a notice that the book "will become the grand list of such town and of each person therein named, unless cause to the contrary is shown." The notice must also inform people that the listers will be available to hear all grievances concerning the valuations. If there has been a change in any appraisal value, the listers must notify each owner of such property of the change in appraisal and the time and place when grievances will be heard. Such notice must be given by first class mail at least 14 days prior to such hearings. The listers may also correct any errors or omissions found in the abstracts and notify the taxpayer. In

addition, multiple postings of the information regarding grievance hearings must be made, including one in the clerk's office. 32 V.S.A. § 4111.

1. Legalizing Defective or Invalid Abstracts. If an abstract of individual lists is not lodged in the municipal clerk's office, is not lodged within the time limit prescribed, is defective, or a defective notice or no notice was given, or if the listers do not meet at the time and place specified in the notice, they shall make the necessary corrections or amendments so that a *valid abstract* is properly lodged in the clerk's office. 32 V.S.A. § 4112.

Upon completion of editing defective or invalid individual abstracts, listers shall legally validate those abstracts with a "certificate to amended abstract" setting forth the particulars of wherein it was defective or invalid and what correction was made, as well as the date the abstract was amended and lodged. Failure to include one or more of the particulars wherein the abstract was defective or invalid shall not invalidate the actions taken by the listers. 32 V.S.A. § 4113.

2. Certificate of Clerk. After the abstract has been amended, the clerk shall re-certify it, showing the date when the abstract was amended. 32 V.S.A. § 4114.

3. Re-Noticing the Abstracts. Following corrections and certification, a repeat notice must be carried out by:

- rescheduling a time for grievance hearings (not less than 15 days after the date of such notice);
- posting copies in the clerk's office and in five other places in town;
- publishing such notice for two successive weeks in one or more newspapers (to be selected by the clerk), the last publication to be at least three days prior to the date of the hearings; and
- notice by first-class mail to nonresident taxpayers, sent to their last known address.

The clerk shall sign a certificate verifying the posting and publication of such notices.

F. GRAND LIST BOOK

1. Receipt of the Grand List. When the grand list is lodged in the town office, the clerk shall record the time of receipt, and place it with permanent files of the office. 32 V.S.A. § 4154.

When the listers submit the grand list, they sign the page of the book on which the following oath is printed, thereby attesting that their findings are true facts.

"I do solemnly swear (or affirm) that according to my best knowledge, information and belief, the foregoing list contains a true statement of the listed valuation of all taxable polls and taxable real and personal estate, taxable within

the Town of _____, so help me God (or “under the pains and penalties of perjury”).” 32 V.S.A. § 4151(b).

Each lister must take the oath, and the clerk must certify upon the list the time the oath was taken and the date the completed grand list was filed. 32 V.S.A. § 4151 (c).

2. Contents. The completed grand list book shall be lodged in the clerk’s office and shall contain, among other things:

- the name of each taxpayer, arranged alphabetically;
- the last known mailing address of each owner;
- a brief description of each parcel;
- the listed valuation of each owner’s taxable personal estate and the listed value for exempt property, what the full value of the property would be absent the exemption, and the statutory authority for the exemption along with the years such exemption started and will end;
- the listed value of each non-exempt parcel;
- for exempt parcels, what the full listed value would be absent the exemption and the statutory authority for the exemption; and for properties exempt pursuant to a vote, the years that exemption began and will end;
- certain information for parcels exempt under 32 V.S.A. §§ 3607a, 3832 (1), (6) and (7), 3836, 3840, 3845 and 3847;
- certain information regarding parcels subject to stabilization value agreements;
- the listed values of homesteads; and
- certain information regarding mobile homes.

32 V.S.A. § 4152.

3. Certificate of Attestation. When there is no appeal from the appraisal of the listers and no suit to recover taxes paid under protest pending on the first Tuesday of February following the lodging of the grand list, the selectboard and listers (or the mayor and assessors) shall endorse a certificate to that effect upon the grand list. That shall also be attested by the municipal clerk with the date of such attestation. When there is a pending appeal or suit, such certification may be done as soon as it has been finally resolved. 32 V.S.A. §§ 4155-4156.

4. Loss or Destruction. In the case of a lost or destroyed grand list, the listers shall at once make a new appraisal of all taxable property in the town and return the same to the clerk’s office within 60 days of the appraisal. 32 V.S.A. § 4158.

5. Abstracts of Grand List

a. Definition. An abstract of the grand list of the town shall contain information prescribed by rule of the commissioner of taxes, which is reasonably needed for the proper execution of his or her duties.

- b. Form and Deposit.** Annually, on or before June 15, listers shall make and deposit with the clerk an abstract of the grand list of the town. On or before July 5, an abstract shall be made by the appraisers for unorganized towns and gores and deposited by them with the county clerk of the county where the town or gore is located. 32 V.S.A. § 4181.
- c. False Abstracts.** If a lister or appraiser knowingly makes or returns an incorrect abstract, he shall be fined up to \$500.00. 32 V.S.A. § 4182.
- d. Certification by Clerk.** When the abstract is returned to the clerk, the clerk compares the abstract to the grand list and, if it is accurate, so certifies. If the abstract is not correct, the municipal clerk should so certify and state where the changes are necessary to make it conform to the grand list. 32 V.S.A. § 4183.
- e. Neglect.** A municipal or county clerk who fails to make the certificate, or transmit the abstract, or who knowingly make a false certificate or statement on the abstract, shall be fined not more than \$500. 32 V.S.A. § 4184.
- f. Transmission to Director.** On or before August 15 the municipal or county clerk shall transmit the abstract and a photocopy of the grand list by mail to the director of the Division of Property Valuation and Review who keeps the file on these abstracts in his office. When the grand list has been added to, or changed by the listers or other authorized officials, the clerk shall certify the same to the director. 32 V.S.A. § 4185 (a).

If a town clerk fails without cause to transmit the abstract or grand list in a timely manner, the commissioner shall notify the secretaries of transportation and education who will withhold all general and other aid payments owing to the municipality until the abstract is filed. 32 V.S.A. § 4185(b).

G. GRIEVANCE HEARINGS AND APPEALS

- 1. The Board of Listers.** When the grand list is lodged with the town clerk, the listers must send notice to all property owners of any change in appraised value of their property or any change in the allocation of value to the homestead, as well as the amount of the change in appraisal and the time and place that aggrieved persons may be heard by the listers. The requirements for personal notice to the individual taxpayers and for posted notice of grievance hearings are found in 32 V.S.A. § 4111 (e). The listers must then meet to hear all of the persons aggrieved (or their agents or attorneys) until all matters have been resolved and the taxpayer notified of the result. 32 V.S.A. §§ 4221-4223.
- 2. The Board of Civil Authority.** Within 14 days after the notice of the lister's final decision, a person aggrieved by that decision may appeal *in writing* to the board of civil authority by lodging that appeal with the clerk, who records it in the book containing the abstract of individual lists. 32 V.S.A. § 4404(a). When the board of civil authority

becomes involved in the appeal process, so does the municipal clerk because he or she is also clerk of the board. 24 V.S.A. § 801.

Meetings for tax appeal purposes shall be called “forthwith” by the clerk and shall occur not later than 14 days after the last date allowed for notice of appeal. Notice shall consist of posting notice in three or more public places within the town at least five days prior to the meeting. 32 V.S.A. § 4404 (b); 24 V.S.A. § 801. In addition to posting warnings, the clerk shall mail a copy of the warning to each member of the board, the agent of the town (to prosecute and defend suits), the chairman of the board of listers and to all people making appeals. 32 V.S.A. § 4404 (b).

The board of civil authority shall continue to meet “on that day and from day to day thereafter” until appeals have been heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board. Note that if, after notice, the appellant refuses to allow inspection of the property, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The committee shall then report to the board within 30 days from the date of the hearing on that appeal. Within 15 days from the time of the committee report, the board shall certify in writing its notice of decision, with its reasons. That report shall be filed with the clerk, who shall record it in the book wherein the appeal was recorded and “forthwith notify the appellant in writing of the action of the board by certified mail.” 32 V.S.A. § 4404(c). The board of civil authority may increase, reduce or sustain an appraisal made by listers. 32 V.S.A. § 4409.

If the board does not substantially comply with the requirements mentioned above, and if the appeal is not withdrawn by written notice to the board or deemed withdrawn, the grand list of the appellant for the year for which the appeal is being made shall remain at the amount set before the appealed change was made by the listers, with the exception that if there has been a complete reappraisal, the grand list of the appellant must be set at a value which will produce a tax liability that is equal to the tax liability for the preceding year. 32 V.S.A. § 4404(c).

H. CORRECTIONS IN GRAND LIST AFTER RETURN

1. Correcting Omission From Grand List. “When real or personal estate is omitted from the grand list by mistake, or an obvious error is found, the listers, with the approval of the [selectboard], before December 31, may supply such omissions or correct such errors and make a certificate of that fact.” 32 V.S.A. § 4261. Note that all references to polls or poll tax whenever it appears in the Vermont Statutes Annotated is deleted as of July 1, 1982.

2. Legalizing Defective or Invalid Grand List. When the listers do not subscribe and attach to the grand list their oath within the time required or fail to lodge the grand list within the time prescribed, or if a defective or invalid grand list is lodged within the time prescribed, or if in any other way the grand list is defective or invalid, either on or before

the upcoming February 15, the listers will correct any defective grand list and anything else that is necessary to render the grand list valid. 32 V.S.A. § 4262.

3. Listers' Certificate. To any grand list which has been amended or corrected, the listers shall add a certificate stating their actions in correcting and amending the grand list, along with the date the corrections were made or the date the corrected list was lodged in the municipal clerk's office. 32 V.S.A. § 4263.

4. Clerk's Certificate. After the grand list has been amended or corrected, the municipal clerk shall attach his or her certificate to the list stating the date when the amendments were added or the date when the list was lodged in his or her office. 32 V.S.A. § 4264.

5. When the Grand List is Not Filed in Time. When an abstract or grand list is invalid solely because the listers failed to lodge such abstract or grand list in the office of the municipal clerk within the time required by law, or failed to return the appraisal within such time, they shall add a certificate stating the date when it was lodged or returned. 32 V.S.A. § 4265.

I. LISTER'S CALENDAR

	<u>Population of less than 5,000</u>	<u>Population of 5,000 and over</u>
Assessment Date	April 1	April 1
<i>Latest</i> abstract of individual lists can be lodged	June 4	June 24
<i>Latest</i> change of appraisal notices can be sent	June 4	June 24
Grievances must be filed by (above date + 14)	June 19	July 9
Grievance hearings end	July 2	July 22
Result of grievance mailed*	July 9	July 29
Latest grand list can be lodged	July 25	Aug. 14
Deadline for filing appeal to Board of Civil Authority	**	**
Board of Civil Authority hearings begin	***	***
* Results must be mailed within seven days of close of hearings. Send certified mail, registered mail, or certificate of mailing to avoid any controversy.		
** Fourteen days from date of mailing of result of grievance.		
*** Fourteen days after last date allowed for filing a notice of appeal.		

These are the last dates possible to meet the statute. Filing may occur anytime after April 1 and prior to these dates.

Read 32 V.S.A. §§ 4111 and 4341 together. The May 5 date in § 4111 is extended 30 days for those towns with a population of less than 5,000, and 50 days in towns with a population of 5,000 and over. May 5 + 30 days = June 4. May 5 + 50 days = June 24.

If a town lodges the abstract of individual lists and sends out change of appraisal notices on May 10, the last day a person could grieve would be May 24. That is the date of lodging plus 14 days. Note that when counting the 14 days, day #1 is the day after mailing.

Extensions may be granted under 32 V.S.A. § 4342. If such extensions are granted, the letter from the director of PVR granting the extension must be lodged in the grand list book.

XII. REPORTS TO STATE AND COUNTY

To avoid redundancy and insure cross-reference, consult the chapter dealing with the subject matter of the particular report that is filed with state officers in this handbook.

A. INFORMATION REGARDING TOWN OFFICIALS

The clerk shall notify the county clerk of the name and mailing address of the first constable after Town Meeting. 24 V.S.A. § 1169.

After an assistant town clerk has been appointed, he or she shall file with the county clerk a record of appointment (certified by the clerk) and a signed copy of the official oath (certified by the magistrate who administered it). 24 V.S.A. § 1172.

Annually, on or before July 1, the clerk shall transmit to the state treasurer the name of the town treasurer. 24 V.S.A. § 1166.

After the annual meeting, the clerk shall notify the Division of Property Valuation and Review (PVR) of the name, mailing address and length of term of each lister. If there are appointments to fill a vacancy on the board of listers, the clerk shall also send such information to PVR. 24 V.S.A. § 1168.

For further information concerning reports of elected officials, see Chapter 3 of this handbook.

B. REPORTS OF OTHER INFORMATION

When the town votes to give tax exemptions on factories, quarries or mines, the clerk must notify the director of PVR, on forms provided by the director, within ten days of the vote, of the exemption and its duration. 32 V.S.A. § 3835.

C. CHARTERS, CHARTER CHANGES AND MERGERS

All municipalities have charters. Most are the original charters which established the existence and boundaries of the town. However, 33 cities and towns and 46 villages have governance charters, and the Town of Poultney exists under a special act.

Generally, municipalities must act under the general laws of the state. However, a governance charter or special act will contain some provisions which differ from the general laws, which apply specifically to the town and which take precedence over the general laws. For example, a governance charter may provide that the town clerk/treasurer shall be appointed rather than elected, or that the annual meeting shall be held on some date other than the first Tuesday in March. Governance charters are legislative acts and so must be adopted, repealed or amended by the state legislature.

The general procedures for adopting or changing charters and for the merger of municipalities are described in some detail in VLCT's *Handbook for Vermont Selectboards*, Chapter 5. The important points for town clerks are that:

- The process may be started by either the legislative body or by petition of 5% of the voters of the municipality;
- an official copy of the proposal must be filed as a public record in the office of the clerk at least 10 days before the first public hearing on the matter;
- copies of the proposal must be made available to the public upon request;
- at least two public hearings shall be held on the matter, the first of which must be held at least 30 days prior to the meeting at which the vote will take place;
- if the proposal was made by the legislative body, the legislative body may revise the proposal after a public hearing, but the changes must be made no less than 20 days before the date of the meeting and notice must be posted of the revisions and a copy of them must be affixed to the official copy filed in the clerk's office;
- if the proposal was made by petition, the second hearing shall be held no later than ten days after the first, and the legislative body has no authority to make revisions to the proposal;
- notice of the hearings and the annual or special meeting shall be made in the same way as for an annual meeting, and such notice shall be specific as to the proposed changes or shall include a concise summary of the proposed changes and shall state that an official copy of the proposed amendments is on file for public inspection in the office of the clerk and that copies are available upon request;
- the proposal must be approved by a majority of the registered voters present and voting at an annual or special meeting, voting by Australian ballot;
- the clerk, under the direction of the legislative body, shall announce and post the results immediately and shall, within 10 days, certify to the Secretary of State each proposal and the facts as to its origin and the procedure followed;
- the Secretary of State shall deliver copies to the attorney general and the general assembly; and
- the amendments shall become effective upon affirmative enactment by the general assembly.

17 V.S.A. § 2645.

Municipalities may also merge or consolidate under authority of 24 V.S.A. Chapters 49 and 45 by the process spelled out in those chapters or authorized by a special act. (For a summary of those topics see VLCT's *Handbook for Vermont Selectboards*, Chapter 5.)

D. TOWN REPORT

The purpose of the town report is to acquaint the taxpayers with the town's financial status as well as to check on the reports of the town's officers, boards and committees. In essence, it is a record of the town's activities throughout the year.

Historically, the auditors have been responsible for preparing the report. However, the law was changed in 1997 to allow the town to vote to eliminate the office of auditor and to contract with a licensed public accountant to conduct a financial audit. 17 V.S.A. § 2651b (a). If the town has voted to eliminate the office of auditor, then the responsibility for the town report falls to the selectboard. 24 V.S.A. § 1682. In actual practice, the report may be a joint effort of several town officers including the town clerk.

The report shall include:

- a detailed statement of the financial condition of the town and the school district for their fiscal years;
 - a classified summary of receipts and expenditures;
 - a list of all outstanding orders and payables more than 30 days past due;
 - a showing of any existing deficit;
 - the report and budget of the supervisory union as required by 16 V.S.A. § 261a (10); and
 - such other information as the municipality shall direct.
- 24 V.S.A. § 1683.

In recent years, the town report has taken on a new and different dimension in addition to the statutory requirements of specific information that must be included in the report. Currently, many towns include dedications, photographs, and other public material in their reports and take pride in the final product. The University of Vermont Extension Service and the Vermont Institute for Government co-sponsor the James P. Taylor Town Report contest each year, and there is much interest in and competition for the awards.

The completed report shall be mailed or otherwise distributed to the legal voters at least ten days before the annual meeting. Note that if the town report does not include the warning for the town and school district meetings, those warnings must be published in a newspaper of general circulation in the municipality at least five days before the meeting. 17 V.S.A. § 2641 (b).

In addition to mailing the report to the voters, copies shall be provided to the clerk so that he or she may:

- keep on file two or more copies;
- supply two copies to each library within the municipality;

- supply two copies to the state library; and
 - send one copy each to the secretary of state, commissioner of taxes, transportation board, state board of health, commissioner of social welfare, auditor of accounts and the board of education.
- 24 V.S.A. § 1173.

At suitable intervals, the clerk shall bind the file copies of the report in book form.
24 V.S.A. § 1174.

E. PROPERTY TRANSFER TAX RETURNS

Within 30 days after receipt of any property transfer return or payment of property transfer tax under 32 V.S.A. Chapter 231, the municipal clerk shall file the return in his or her office and forward one copy of that return and the amount of tax paid to the commissioner of taxes. Copies of property transfer returns in the municipal clerk's office may be inspected by any member of the public. 32 V.S.A. § 9610.

XIII. ANIMALS

A. DOGS/DOMESTIC PETS

For information concerning general requirements of registering and licensing dogs, see Chapter V, Section A in this handbook. For other information about animals, see Chapter VII of VLCT's *Handbook for Vermont Selectboards*.

1. Rabies Control. Rabies is a fatal, viral disease which is spread by certain unvaccinated wild or domestic animals. Rabies vaccine is required in order to license animals as a measure to protect both the animal and its human and animal contacts.

When an animal or person is attacked or bitten by an animal whose rabies vaccine status is unknown, a potential emergency exists. As the person who is frequently the first contact in town, the clerk should have a plan in place to deal with such a situation. A plan should include the following steps:

- If the bite/attack was by an identified domestic pet, check to see if the animal has had a current rabies vaccine.
- Contact the town's health officer, constable or animal control officer.
- If they are not available, call the Health Department's Rabies Hotline (800-4-RABIES or 800-472-2437) for information and advice.

2. Vicious Domestic Pets or Wolf-Hybrids. When a domestic pet or wolf hybrid has bitten a person while off the premises of its owner or keeper, and the person requires medical attention, the victim may file written complaint with the legislative body of the municipality. The complaint should include all relevant facts such as the names and addresses of the victim(s), the date, time and place of the attack, the identity of the

attacking animal and its owner, and any other information which may be helpful to the board in its investigation of the incident.

The complaint may be delivered to the clerk rather than directly to the legislative body. In this case, it must be passed on to the board as soon as possible, because the board has only seven days from the time of receipt of the written complaint to investigate the incident and to hold a hearing. If the dog's owner can be found, the owner shall be notified in writing of the date, time and place of the hearing and the alleged facts of the attack.

If, upon conclusion of the hearing, it is found that the animal bit the victim without provocation, then the municipal officials "shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the domestic pet or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined." This order shall be sent to the owner by certified mail, return receipt requested. If the owner fails to comply with the order, he or she shall be subject to the penalties provided in 20 V.S.A. § 3551. 20 V.S.A. § 3546.

NOTE: The above provisions apply only if the animal is not a rabies suspect. If the animal *is* a rabies suspect, the provisions of 20 V.S.A. §§ 3801–3813 and the rules of the Health Department apply. 20 V.S.A. § 3546.

The selectboard shall annually designate one or more persons to take and maintain a list of inoculated and licensed dogs owned or kept in their town and to submit the list to the municipal clerk. After receiving a list of dogs from persons authorized by the selectboard, the municipal clerk shall notify the owners or keepers of all dogs named on the list that have not already been licensed, and after may 30 shall furnish to the selectboard of towns or the mayors of cities a list of dogs not licensed as required by law. 20 V.S.A. § 3590.

B. PRIVATE PRESERVES, PONDS, SHOOTING GROUNDS

1. Notices, Posting. A person who wishes to post his or her land for no hunting, fishing or trapping shall annually have the notice recorded in the municipal clerk's office of the town where the land is located. The form on which the clerk records the notice shall be furnished by the commissioner and shall be filled out in triplicate, one copy to be retained by the municipal clerk, one copy to the commissioner, and one copy to be retained by the person having the right to post the lands. The forms shall contain the following information: the approximate number of acres posted; location in town; date of posting; and signature of person so posting the lands. The clerk shall file the record and it shall be open to public inspection. The clerk shall retain a fee of \$5.00 for this recording. 10 V.S.A. § 5201. The owner should be advised that s/he must also post the property annually as required by 10 V.S.A. § 5201 (b).

2. Private Preserves, Stocking. In order to create a private fishing preserve, a person must stock a stream or pond as described in 10 V.S.A. § 5202 (a) and file with the

commissioner and the clerk of the town where the waters lie, a sworn affidavit testifying that the provisions of 10 V.S.A. § 5202 (a) have been complied with. It shall also include the number and kinds of fish with which the water is stocked, from whom they were purchased and the date of purchase. 10 V.S.A. § 5202. The affidavit, which is filed with the clerk, is a public document.

Note that if the waters or lands are stocked by the state with fish, game or wild animals with the knowledge and consent of the owner, the owner may not set up a private reserve. However, the commissioner has the discretion to stock a private fishing preserve where it will be used by a charitable or non-profit organization at no charge. In that case, the owner may prohibit its use by the general public. 10 V.S.A. § 5202 (b).

3. Game Refuges. The commissioner may prohibit or regulate the taking of wild animals upon public lands set aside with the approval of the Governor, or upon private lands set aside with the consent of the owner thereof, for a specified period of years. At least 30 days before the establishment of the game refuge is to commence, the commissioner shall file a copy of the prohibition or regulation in the clerk's office of the town where the land is located. 10 V.S.A. § 5215.

XIV. RECREATION AND SPORTS

A. MOTOR VEHICLE RACES

1. Permits. Anyone who conducts or holds a motor vehicle race must obtain a permit from the Motor Vehicles Racing Commission as well as the selectboard of the town where the race will to be held. The permit must be signed and certified by both the selectboard and the Motor Vehicles Racing Commission, and filed with the municipal clerk of the town where the race will be held. 31 V.S.A. § 301.

2. Fees. The municipality may charge a fee, not to exceed its costs associated with the race. 31 V.S.A. § 305 (b).

3. Insurance. A liability insurance certificate showing that a policy covering bodily injury (with limits of not less than \$50,000/\$200,000) and property damage (with limits of \$200,000) is in full force and effect shall be filed with the clerk of the municipality issuing a permit and with the commission. 31 V.S.A. § 306.

B. DANCE HALLS, BOWLING ALLEYS AND POOL HALLS

1. Permits and regulation. The selectboard, city council or trustees of a town, city or incorporated village have the authority to:

- license dance halls, bowling alleys and pool halls under authority granted by 31 V.S.A. § 503;
- charge fees as prescribed in 31 V.S.A. § 504; and

- issue regulations for the operation of such entertainments under authority of 31 V.S.A. §§ 504–505.

Such rules and regulations must be recorded in the municipal clerk’s office of the municipality where the dance hall is located before a license can be issued, and before the rules and regulations become effective. A license shall not be issued unless the establishment complies with the rules and regulations set forth by the municipality. 31 V.S.A. § 505. (“Dance hall” is defined in 31 V.S.A. § 501.)

Note that there are exceptions to these laws if such establishments are operated by charitable, educational or fraternal organizations. 31 V.S.A. § 506.

C. CIRCUSES, MENAGERIES AND SIMILAR SHOWS

Although 31 V.S.A. §§ 401ff. purport to allow municipal regulation of entertainments listed in 32 V.S.A. §§ 9901-9910, such authority appears to be defunct because 32 V.S.A. §§ 9901-9910 have been repealed.

D. GREEN MOUNTAIN PASSPORT

Green Mountain Passports are available to any legal resident of Vermont who is:

- at least 62 years of age;
- totally disabled as the result of disease or injury suffered while serving in the armed forces; or
- a resident of the Vermont Veteran’s Home in Bennington.

31 V.S.A. § 1002(a).

Green Mountain Passport holders are eligible for free admission to Vermont state parks, museums and events which are fully state sponsored. In addition, holders are eligible for reduced prices on goods and services from hundreds of Vermont’s private businesses. A list of private businesses that participate in the passport program is available through the Department of Aging and Disability. Participating establishments may display decals. 31 V.S.A. §§ 1003-1004. Other opportunities available to Green Mountain Passport bearers include a day’s admission to any fair, field day, or exposition that operates for more than one day and is either fully or partially supported by state grants or stipends. The specific day that the passports will be honored shall be publicized at least one week before the event starts. 31 V.S.A. § 1003(b).

The application form shall be provided by the commissioner of the Department of Aging and Disabilities in sufficient number to the municipal clerk of each town. The municipal clerk shall issue a passport to any legal resident of that town who swears, under oath, that he or she meets the eligibility criteria. The criteria for legal residency are the same as those for a voter. The \$2.00 passport fee is retained by the town. The clerk maintains records for fiscal accounting, replacing lost passports or changing passport data, and for

numbers of passports issued, and shall provide statistical information to the commissioner upon request. 31 V.S.A. § 1002.

The Department of Aging and Disabilities is located at 103 South Main Street, Waterbury, VT 05671-2301. Its telephone number is 802-241-2400, the fax number is 802-241-2325 and its website is www.dad.state.vt.us.

See sample Green Mountain Passport application on page 71.

GREEN MOUNTAIN PASSPORT APPLICATION FORM

Instructions

1. Provide name, mailing address and date of birth of applicant in the appropriate spaces below.
2. Applicant certifies eligibility.
3. Clerk certifies applicant oath and payment.
4. Voluntary information (to make it useful as an identification card, the Green Mountain Passport may include other information in the appropriate spaces below, if desired).
 - Social Security number.
 - Contact person’s name and address, in case of emergency.
 - Medical information about a chronic physical condition, such as heart disease, diabetes, allergies, sensitivity to drugs, or other conditions.

=====
Name _____

Mailing Address _____

Date of Birth _____ Soc. Sec. No. _____

Notify (in case of emergency) _____

Medical Information _____

=====
APPLICANT’S CERTIFICATION

I declare under oath and penalty that I am 62 years of age or older, or have been certified by the Vermont Veterans Administration to be totally disabled as the result of disease or injury suffered while serving in the armed forces, OR a resident of the Vermont Veterans Home AND a resident of Vermont.

(Signature of Applicant)

=====
CLERK’S CERTIFICATION

I certify that _____ has declared under oath that the statement of age or veteran eligibility are true. The appropriate fee has been collected.

(Signature of Clerk)

Municipality

Date

XV. ALCOHOLIC BEVERAGES

A. CONTROL COMMISSIONERS

The Vermont State Liquor Control Board prepares and issues all forms, rules, and regulations concerning the supervision and management of the licensing and sale of alcoholic beverages. Local control commissioners administer these rules and regulations. 7 V.S.A. § 167. The selectboard or city council of each town or city is the board of control commissioners for its municipality. Likewise, the municipal clerk is the recording officer and clerk for the commissioners. 7 V.S.A. § 166.

B. MUNICIPAL CONTROL

1. Licenses Voted, Town Meetings, Warnings. Towns and cities may vote whether to allow the sale of malt, vinous or spirituous liquors to be sold within the municipality. The voters may petition for an article at an annual or special meeting to consider the following questions:

- Shall licenses for the sale of malt and vinous beverages be granted in this town?
- Shall spirituous liquors be sold in this town?

The vote under such article shall be by ballot in the following form:

- Shall licenses for the sale of malt and vinous beverages be granted in this town?

Yes _____ No _____

Shall spirituous liquors be sold in this town?

Yes _____ No _____

Authority for this is granted in 7 V.S.A. § 161 (a). (The reference in that statute to 24 V.S.A. § 704 is no longer valid, since authority for petitioned articles is now found in 17 V.S.A. § 2642.)

2. Ballots. Note that the vote is by “ballot” and *not* by “Australian ballot.” Thus, unless the municipality has voted to decide this matter, or to decide all public questions, by Australian ballot, this matter shall be voted like any other matter which the town votes by paper ballot at a regular or special town meeting. 17 V.S.A. § 2680.

The town clerk shall cause blank ballots for the vote on sale of alcoholic beverages to be prepared at least two weeks prior to the meeting in any color except yellow. The quantity of blank ballots prepared should be one-and-one-tenth times the number of voters qualified to vote at the previous general election as shown by the checklist. Each ballot shall have on it the words “OFFICIAL BALLOT,” followed by the name of the town in which it is to be used and the date of the election printed upon it. Municipal clerks may

use regular ballots as sample ballots by insuring the words “ SAMPLE BALLOT” are clearly printed on the front of each sample ballot. 7 V.S.A. § 163.

3. Hours of Opening. The box in which ballots are to be deposited shall be available from when the meeting is called to order until the time when general voting ceases. 7 V.S.A. § 165.

4. Duties of Ballot Clerks and Municipal Clerks. During the election, the municipal clerk, ballot clerks and board of civil authority shall perform the same duties in respect to such election as are imposed upon them by the provisions of law governing general elections, except as otherwise provided. 7 V.S.A. § 164.

5. Report. When the meeting has come to a close, the municipal clerk shall promptly report the results of the vote to the Liquor Control Board on forms furnished by the Board. 7 V.S.A. § 162.

C. FEE FOR ISSUING ALCOHOLIC FIRST- AND SECOND-CLASS LICENSES

The local liquor control commissioners may issue and collect all fees for retailers’ first- and second-class licenses. 7 V.S.A. §§ 222, 233. Fees shall be turned over to the treasurers of the cities and towns where the fees are collected, to be used as directed by the municipality, except that five dollars of the fee shall be retained by the municipal clerk for issuing and recording the license. 7 V.S.A. §§ 232-233. The amounts of the fees required to be paid for the various types of licenses are listed in 7 V.S.A. § 231.

D. CATERER’S LICENSE

The holder of a Class 1 or Class 3 license may apply for a permit to cater alcoholic beverages by getting a recommendation from the local liquor control commissioners and approval from the State Liquor Control Board. This is done by submitting form DLC:5M:4/96 for local recommendation at least 15 days prior to the date of the function. (Under the *Revised Regulations Governing the Sale of Alcoholic Liquor*, Appendix A General § 6, the local board has the discretion to shorten the application time to five days prior to the proposed event.) After the selectboard, acting as the local control commissioners, has considered the application, the town clerk fills in and signs the appropriate section of the form and forwards it to the Vermont Liquor Control Board, Green Mountain Drive, Drawer 20, Montpelier, VT. 05602-4501. A sample copy of Form DLC:5M:4/96 is on the following page.

**REQUEST TO CATER
MALT & VINOUS BEVERAGES
AND SPIRITOUS LIQUORS**

Caterer's Permit No: _____

<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
_____ Date
REASON: _____ _____ (for department use only)

To Selectboard/alderboard members at **catered** location and Vermont Liquor Control Board.

From Licensee name _____
 d/b/a _____
 Street address _____
 City/State/Zip _____
 Mailing address (if different) _____

Be sure to read instructions below before completing application.

Each catered affair must have a recommendation from the local selectboard or alderboard acting in its capacity as local control commissioners and must have the approval of the State Liquor Control Board.

Please answer the following questions.

1. Describe type of party to be catered. _____

2. Location of catered party (street, town or city; if no address, describe location). _____

3. Date of catered party (not more than five days, unless specifically authorized by the Liquor Control Board).

 Date of Catered Party
4. Hours of operation:
 Begins _____ Ends _____

Signed: _____
Caterer Date

=====
 We recommend: APPROVAL DISAPPROVAL

If you recommend disapproval, please state reason(s): _____

 Signature of municipal clerk of **catered** location Municipality Date

Submit at least 15 days prior to date of function.

Submit to municipal clerk for recommendation. Municipal clerk will mail to:
 Vermont Liquor Control Board, Green Mountain Drive, Drawer 20, Montpelier, VT 05620-4501.

Liquor Control Board's Procedural Requirements for Caterer's Permit Holders:

1. All liquor control laws and regulations that apply to 1st and 3rd class licenses also apply to caterer's permit.
2. Before a catered event is approved in any open area, the following requirements must be fulfilled.
 - a. A defined area, for serving and consumption of alcohol beverages, designated with physical barriers.
 - b. Separate toilet and lavatory facilities available for both men and women.
 - c. Provide sufficient number of employees for control purposes.

DLC:5M: 4/96

E. TRADEMARK, REGISTRATION OF NAME OR MARK

A licensed buyer, dealer or vendor of intoxicating beverages in receptacles whose name, mark or other device is produced in a permanent manner in or on such a receptacle, may file in the clerk's office of the town in which the principle place of business is located, a description of the permanent name, mark or device used in or upon the receptacle. The dealer may also publish a description of the name or mark in a local or county newspaper, as described in 9 V.S.A. § 2571.

XVI. HIGHWAYS

The selectboard has the responsibility for the town highways and the municipal clerk is responsible for the safekeeping of records relating to them. Accurate, up-to-date records are needed because of possible disputes as to rights-of-way and land rights of abutting property owners, and because the general state aid to towns for highways is calculated based on mileage and class of highway. 19 V.S.A. § 306.

A. MEASUREMENT OF TOWN HIGHWAYS

After reasonable notice to the selectboard, a representative of the Agency of Transportation shall measure the class 1, 2, and 3 town highways in order to verify the accuracy of the records on file with the agency. The selectboard may request that it, or its designee, accompany the agency representative during the measurement. If the agency finds that any parts of the town highways do not meet standards, and the town does not bring those highways up to standard or develop a plan to do so, the agency will reduce the amount of state aid accordingly. 19 V.S.A. §§ 305-306.

Annually, on or before February 10, the selectboard shall file a sworn statement of the description and measurements of the existing class 1, 2 and 3 town highways, including any which are designated as scenic or throughways, in the municipal clerk's office. If any class 1, 2 or 3 town highways are accepted, discontinued or reclassified by statutory procedure, a copy of such proceedings shall be filed in the clerk's office and a copy forwarded to the Agency of Transportation. For further details on the responsibilities of a selectboard concerning measurement, description or classification of town highways, consult 19 V.S.A. § 305.

Upon request, the agency will supply the municipality with highway maps of the town, showing the classes of highways and other appropriate information. 19 V.S.A. § 305 (e).

B. LAYING OUT, ALTERING, RECLASSIFYING, OR DISCONTINUING HIGHWAYS.

The statutory process which must be followed when the selectboard lays out, alters, reclassifies or discontinues a highway is found in 19 V.S.A. Chapter 7.

The basic steps to be taken are:

1. **Petition.** The selectboard may be petitioned by the landowners or voters of the town to act. The petition must be signed by at least 5% of the landowners or voters in town. Alternatively, the selectboard may propose such change on its own motion. 19 V.S.A. § 708.
2. Upon receipt of the petition, the selectboard shall set a time and date to inspect the premises and to hold a hearing on the proposal. The hearing must be held promptly and requires notice and posting as described in 19 V.S.A. § 709.
3. After the hearing, the selectboard shall decide what to do based on the public good, necessity and convenience of the inhabitants of the municipality. 19 V.S.A. § 710.
4. If a highway is to be laid out, altered or reclassified, the board shall cause the highway to be surveyed if the right-of-way cannot be determined and shall place monuments to mark the bounds of the survey. If a highway is to be discontinued, such decision shall be in writing and shall set forth a completed description of the highway. 19 V.S.A. § 710.
5. Within 60 days after the hearing, the selectboard shall deliver to the town clerk its report including the original petition (if any), a report of findings, manner of notifying the parties, and the survey or discontinuance order. The order and survey shall be recorded by the clerk. 19 V.S.A. § 711.
6. When the highway is completed and opened for use, the selectboard shall file a certificate of completion to be recorded by the town clerk. 19 V.S.A. § 715. Within six days of such recording, the selectboard shall also provide a copy to each owner or occupant of the affected land. 19 V.S.A. § 716.
7. Any person aggrieved by the decision can bring an appeal as described in 19 V.S.A. Chapter 7, Subchapters 3 and 4.

C. MISCELLANEOUS RECORDINGS

1. **Winter Highway.** When the selectboard establishes a winter highway, it shall record in the office of the municipal clerk a certified record of all of its proceedings undertaken in laying out that highway and awarding damages to the property owners. 19 V.S.A. §§ 923, 955-957.
2. **Lumber Roads.** When the selectboard finds it necessary to lay out a road for the removal of lumber, it must file a copy of its decision with the clerk. 19 V.S.A. §§ 923, 958.
3. **Snow Fences.** If the selectboard orders a snow fence to be erected on land adjoining a highway, it shall cause to be recorded in the municipal clerk's office a copy of its order

accompanied by a report of the damages incurred in erecting the snow fence. 19 V.S.A. §§ 923, 927-928.

4. Change of Grade of Highway. When the selectboard believes that a roadbed must be altered by lowering or raising the same more than three feet in front of a house or other building, it may order such alteration and must file a copy of its decision with the clerk. 19 V.S.A. §§ 923-924.

D. DIVERSION OF STREAMS

When the selectboard finds it necessary to protect the highway against flood waters or ice jams in a nearby stream, it can cause the course or width of the stream to be altered in order to prevent damage. The board may also take or purchase land for those purposes or to provide storage for accumulated ice to prevent flooding. In doing so, the board must follow the procedure in 19 V.S.A. § 923, including filing a copy of its decision with the town clerk. 19 V.S.A. § 940.

E. RELOCATION OF A HIGHWAY

When a highway is made impassable or unsafe because of landslide, washout or destruction of a bridge by flood, the selectboard may relocate the highway. 19 V.S.A. §§ 935-936. In doing so it must follow the procedures in 19 V.S.A. § 923, including filing a copy of the decision with the town clerk.

F. DRAINS, DITCHES, WATERCOURSES

The selectboard has authority to divert water by construction of an embankment or dyke, or to cause a drain, ditch or watercourse to be constructed to carry away the surface water from the highway for public health reasons. When it does so, it must follow the procedure in 19 V.S.A. § 923, including filing a copy of the decision with the town clerk. 19 V.S.A. § 951.

G. LOAD LIMITS

When the Secretary of Transportation or the legislative body of a municipality finds that the weight limit on highways or bridges within the town must be different from the general weight limit set in 23 V.S.A. § 1392, they shall post such limits. In addition, they shall file a certified statement with the municipal clerk, stating the location of the highway or bridge, the legal load limit to which each is restricted and the date of the posting. If the restriction is removed or changed, a certified statement to that effect must be filed with the clerk. 23 V.S.A. § 1396-1398.

H. STATE HIGHWAYS

When an addition or deletion is made to the state highways, the Agency of Transportation shall complete a mileage certificate showing the changes. It shall file a copy with the

Secretary of State and a copy in the office of the municipal clerk where the affected highways are located. 19 V.S.A. § 14 (b).

XVII. SCHOOL DISTRICT CLERK

A. INTRODUCTION

Vermont municipal clerks assume a number of responsibilities for school districts by virtue of their positions. Each school district is a separate government entity, distinct from the town. 17 V.S.A. § 2103 (24). School districts are governed by Title 16 of the Vermont Statutes Annotated, where they differ from the general laws. They hold their own annual meeting, have their own boards, and vote their own budgets.

There are several different types of school districts in Vermont:

- town school district (16 V.S.A. § 421);
- city school district (see individual city charters);
- incorporated school district (16 V.S.A. § 471);
- union school districts (including unified union districts) 16 V.S.A. Chapter 11; and
- interstate compact school districts between New Hampshire and Vermont (16 V.S.A. chapter 15) and between New York and Vermont (16 V.S.A. Chapter 17).

Each town constitutes a town school district except when there is an incorporated school district within the town. In that case, the town school district shall consist of the part of town which is not included in the incorporated district. 16 V.S.A. § 421. Where there is a town school district, the town clerk shall be the clerk for that school district, unless otherwise voted. As such, the clerk performs the same duties for the district as he or she does for the town, and whatever additional duties imposed by Title 16. 16 V.S.A. § 425.

Many town school districts have realized that they cannot support an entire school system on their own, so they have banded together with other towns to form union school districts. There are numerous union school districts today. Each participating town school district pays an assessment to the union school district as part of its annual budget.

In addition, there are 46 supervisory union school districts which were established by the state board of education to provide administrative and financial services to the schools within them. 16 V.S.A. Chapter 7.

B. SCHOOL DISTRICTS GENERALLY

Municipal clerks must perform the same duties for the town school district as they do for the town, unless otherwise voted. 16 V.S.A. § 425. The vast majority of those responsibilities are related to elections and school district meetings (e.g., voter eligibility, checklist preparation, ballot preparation and reporting of results). After the grand list is lodged in the office of the municipal clerk, the selectboard shall set the tax rate necessary

to raise the specific amounts of money voted by the district electorate for the support of the schools. 16 V.S.A. § 428.

When there is a vacancy on the school board and it is filled either by appointment of the selectboard or voting by the electorate, the clerk shall record such replacement in the municipal office. 16 V.S.A. § 424.

Each school district *may* elect a school district clerk who “shall keep a true record of all proceedings at each district meeting, certify its records, make an attested copy of any records of the district for any person upon request and tender of reasonable fees therefor, if so appointed serve as secretary of the school board, and perform such other duties as may be required by law.” 16 V.S.A. § 562(3). This clerk may or may not be the municipal clerk. If the district *does not* elect a separate district clerk, the municipal clerk is automatically responsible for those duties. When a separate clerk *is* elected, the municipal clerk still retains all other school-related duties not specifically mentioned in 16 V.S.A. § 562 (3).

Annually, on or before August 5, the school district board must prepare a statement of actual cash expenditures for the prior fiscal year ending June 30 and must send one copy to the school district clerk. 16 V.S.A. § 563 (13).

C. INCORPORATED SCHOOL DISTRICTS

Each incorporated school district shall elect officers from among its own legally qualified voters. The officers *may* include a clerk. This clerk must notify the municipal clerk of his or her appointment or election within ten days. 16 V.S.A. § 491.

D. UNION SCHOOL DISTRICTS

When establishing a union school district, the planning committee of school district members from interested towns must file a copy of its final report with the municipal clerk of each proposed member district at least 20 days prior to the vote to establish the union. 16 V.S.A. § 706c.

The vote on whether to establish the union district *shall* be conducted in each school district designated as necessary to the proposed union and *may* be conducted in each school district designated as advisable to be included in the proposed union district. Such vote shall be held in each district on the same day and during the same hours and shall be done by Australian ballot. Polls shall be open for at least eight hours. Such a meeting shall be warned as a special meeting of the school district. Absentee balloting shall be allowed as specified in 17 V.S.A. §§ 2531–2550. 16 V.S.A. § 706d.

At a meeting held to vote on whether to establish a union school district, the voters shall also elect directors by Australian ballot in the event that the union district is approved. Nominations for the office of these initial union school directors shall be made by filing with the clerk of that school district proposed as a member of the union a statement of

nomination signed by the voters of the district equal in number to at least 1% of the entire vote cast for Governor in that district in the last general election and accepted in writing by the nominee. Such nomination shall be filed no less than 30 nor more than 40 days prior to the date of the vote. 16 V.S.A. § 706e.

Within ten days of the vote on the proposal to establish a union school district, each district clerk shall certify the results of the vote to the commissioner of the Department of Education. The commissioner shall then designate the union school district, as it was approved by the voters, and certify that information to the Secretary of State, who shall record it and send a certified copy of the record to the clerk of each school district which is to be included in the union district. 16 V.S.A. § 706g.

After the term of office of the directors elected at the time the union district was established has expired, union school district directors from each district shall be elected by Australian ballot in those member districts which so elect their town school district directors. 16 V.S.A. § 706k.

After each checklist revision made to update the checklist by the board of civil authority, the clerks of the towns within a union school district shall furnish to the clerk of the district, at the expense of the district, authenticated copies of the checklist of legal voters within the town. A person who has moved from one town within the union district to another one within the district may be allowed to vote as specified in 16 V.S.A. § 706u, even though they have not lived in the current town of residence for the requisite number of days.

E. STATE AID

1. Notice of Fair Market Value and Coefficient of Dispersion. No later than January first of each year, the director of the Division of Property Valuation and Review (PVR) shall notify the clerk and chair of the listers of the equalized education property value and the coefficient of dispersion for the prior year, and the manner in which those values were determined. 32 V.S.A. § 5406(a).

2. Petition for Redetermination. Within 30 days from the date that the clerk receives notice under § 5406 (a), the municipality may petition PVR for a redetermination of its equalized education property value and coefficient of dispersion. The petition must be signed by the chair of the legislative body or his/her designee.

After a hearing upon the petition, PVR shall notify the town, in writing, of the redetermination. This redetermined value may, within 30 days of the director's redetermination, be appealed to the valuation appeal board, and from there to the superior court of the county in which the school district is located, and then to the Supreme Court of Vermont. 32 V.S.A. § 5408.

Note: Definitions helpful in interpreting this section are found in 32 V.S.A. § 5401.

XVIII. MUNICIPAL HOUSING CODES AND BUILDING CODES

A. HOUSING CODES

The legislative body of a municipality may adopt, amend or revise an ordinance to establish and enforce a minimum standard for dwellings. Such an ordinance may be adopted under the authority of 24 V.S.A. § 500(a) by the process prescribed in 24 V.S.A. §§ 1972–1973. An ordinance adopted under this authority shall provide that any enforcement order issued under it “shall be recorded in the office in which a deed of the property would be recorded by law.” When an enforcement order has been complied with, the enforcing officer shall then issue a cancellation of the order. 24 V.S.A. § 5003(b). This means that the original order shall be filed in the municipal clerk’s office and that the notice of cancellation shall also be filed there in order to provide adequate notice that the cloud on the property title has been cleared.

The municipality shall establish a five-member housing board of review which shall hear appeals from any person aggrieved by an enforcement order and shall hear and decide disputes regarding security deposits. When the board meets, it shall keep minutes of its proceedings showing the vote upon each question, a record of its decisions and findings and the reasons therefore, as well as records of any other official actions, all of which shall be filed in the municipal clerk’s office as a public record. 24 V.S.A. § 5005.

Any person, including the enforcement officer, who is aggrieved by a decision of the board may appeal that decision to the superior court. 24 V.S.A. § 5006.

B. BUILDING CODES AND REGULATIONS

A city, town or incorporated village may adopt a building code and regulations under authority of 24 V.S.A. § 3101. The code shall be consistent with the rules and standards adopted by the Commissioner of Labor and Industry under 21 V.S.A. Chapter 3. Note that if the Legislature changes the standards in 21 V.S.A. Chapter 3, those changes may automatically be incorporated into the municipal building code. 24 V.S.A. § 3101 (e).

The general rule is that the code or regulations shall be adopted, amended, repealed or enforced pursuant to the provisions of 24 V.S.A. Chapter 59. However, in addition to the provisions in that chapter, there are also provisions for pre-adoption filing of three copies of the proposed code or regulation in each of the offices of the municipal clerk and the building inspector. 24 V.S.A. § 3104. After a code or regulation has been “amended or supplemented,” at least three copies shall be filed in the office of the building inspector as well as three copies filed with the municipal clerk. 24 V.S.A. § 3103. In addition, the ordinance shall not become effective until after a properly noticed public hearing. 24 V.S.A. § 3105.

Enforcement of the building code is the responsibility of the building inspector and shall be carried out under the provisions of 24 V.S.A. Chapter 83.

XIX. PUBLIC UTILITIES & SERVICES

A. ELECTRIC COOPERATIVES

The board of trustees of an electric cooperative shall annually elect their officers: president, vice president, clerk and treasurer. The clerk of the electric cooperative shall procure and file in the clerk's office of the town where the principal office is located, certified copies of all papers required by law or by 30 V.S.A. Chapter 81 (to be filed with the Secretary of State). 30 V.S.A. § 3017. Any questions regarding specific papers to be filed or kept in this manner should be directed to the Secretary of State's office.

B. TELEGRAPH COMPANIES

A foreign express or telegraph company must keep and record with the municipal clerk in each town where the company has business, a statement of the names and residences of all people comprising the express or telegraph company. 30 V.S.A. § 2601.

C. WIRES

The legislative bodies of municipalities and the state Agency of Transportation (VTrans) have certain jurisdiction over telegraph, telephone and electrical wires, including cable TV wires or cables that are constructed upon or under highways. 30 V.S.A. § 2501. They may determine where and in what manner such wires may be erected so as not to interfere with highway repairs or with the public convenience. Having done so, they shall certify their decision and cause that decision to be recorded in the town clerk's office. 30 V.S.A. §§ 2502-2503.

Where it is possible, VTrans or a selectboard may require that old wires on existing poles be replaced with new wires. Written notice shall be provided to the owners of the old and new wires, and a copy of the written notice shall be lodged in the municipal clerk's office. 30 V.S.A. § 2517.

XX. CEMETERIES

The law regarding cemeteries is found in 18 V.S.A. Chapter 121. It is divided into general law and laws applying to town and private facilities. Therefore, it is important to read each section of the law with care, noting what facilities fall under that particular section.

A. GENERAL LAW REGARDING BURIAL GROUNDS

Any agency that operates a cemetery must file a plat for record with the town clerk. The plat must show the improved areas and the space reserved for future cemetery use. Lots shall be numbered. It is the duty of the clerk to file such plats “in a book provided for that purpose.” The fee for this shall be “the cost of the work of such recording, plus \$3.00.” 18 V.S.A. §§ 5310–5311.

When a private burial ground in town has been abandoned and has become unsightly, three legally qualified voters in town may, by written request, ask the selectboard or cemetery commissioners to post a notice asking interested persons to put the burial ground “in proper condition within three months.” If there is no response, the board shall proceed as if the cemetery were a public burial place. 18 V.S.A. § 5321.

B. LAWS SPECIFIC TO TOWN CEMETERIES

Town cemeteries are under the care of the selectboard unless the town votes to elect a board of three to five cemetery commissioners who shall assume responsibility for the public burial grounds. 18 V.S.A. § 5373. Terms of office are determined according to 18 V.S.A. § 5374 and commissioners shall be elected at the annual town meeting. 17 V.S.A. § 2646 (14).

The selectboard or the cemetery commissioners shall grant and convey lots, and the deeds for such lots shall be recorded in the office of the town clerk. 18 V.S.A. § 5376.

The selectboard or the board of cemetery commissioners may make necessary bylaws and regulations to apply to burial grounds and interment of the dead. However, “A bylaw or regulation shall not be adopted to restrain a person in the free exercise of his or her religious sentiments as to the burial of the dead.” Such bylaws and regulations shall be recorded in the office the clerk. 18 V.S.A. § 5378.

Cemetery commissioners shall annually submit a written report to the town auditors detailing the condition and needs of the burial grounds, as well as a statement of receipts and expenditures, and disposition of funds. The town auditors shall audit the report and statement and file it in the office of the municipal clerk, as well as including it, either in whole or in summary, in their annual report. 18 V.S.A. §§ 5379-5380.

Unless otherwise directed by the donor, all monies received by the town for cemetery purposes shall be paid to the town treasurer, who shall issue a receipt therefor. The receipt shall be recorded in the office of the town clerk in a book kept for that purpose. The book shall contain the name of the donor, the amount received, the time it was received, and the purpose for which the money is to be used. 18 V.S.A. § 5384.

C. LAWS REGARDING CEMETERY ASSOCIATIONS AND CORPORATIONS

Cemeteries established after June 1, 1933 and not owned and operated by a town or religious or ecclesiastical society shall be owned and operated as not-for-profit corporations. 18 V.S.A. §§ 5431-5432.

Annually, the treasurer of a cemetery association shall make, sign and file a report countersigned by the president, concerning the affairs of the corporation and the perpetual care funds. It shall contain the information specified in the statute and shall be filed with the town clerk and with the probate court of the district. 18 V.S.A. § 5438.

A cemetery association not owned and operated by a church or religious or ecclesiastical society may dissolve under the provisions for dissolution of non-profit organizations. Upon dissolution, all property, perpetual care funds and trust funds may be transferred to the town wherein the lands are located. Thereafter, the land may become a public burial ground under the care of the town. 18 V.S.A. § 5439.

D. ACQUISITION OF PROPERTY BY TOWNS AND CEMETERY ASSOCIATIONS

When a town or cemetery association finds it necessary to acquire more land for a cemetery, or to raise the level of an existing burial ground using gravel or earth, it may proceed under the laws in 18 V.S.A. Chapter 121, Subchapter 4.

XXI. PUBLIC INSTITUTIONS AND CORRECTIONS

A. JAILER – APPOINTMENT AND REMOVAL

The legislative body of a municipality has the authority to appoint a jailer of the lockup and may remove him or her at pleasure. The appointment or removal shall be in writing and recorded in the office of the municipal clerk. 28 V.S.A. § 1002.

XXII. MUNICIPAL AND REGIONAL PLANNING AND DEVELOPMENT

In the municipal and regional planning and development process, the municipal clerk's office is the depository for all actions, officials records, and adopted plans, bylaws and capital budgets and programs. It is important, to insure the validity of these documents and actions, that all required filings be made in accordance with the statutory requirements of 24 V.S.A. § 117.

A. TOWN PLAN AND BYLAWS

A town plan is prepared by the planning commission. When a plan and or an amendment to an existing plan is proposed, the planning commission must hold at least one properly-noticed public hearing. At least 30 days prior to that hearing, a copy of the proposed plan or amendment shall be delivered, with proof of receipt (or mailed by certified mail, return receipt requested), to the entities listed in the statute, including the clerk of each abutting municipality if there is no planning commission in that municipality. 24 V.S.A. § 4384(d, e).

Similarly, bylaws are prepared by the planning commission, which must hold at least one public hearing to consider any proposed bylaw, amendment or repeal. At least 15 days prior to the first hearing, a copy of the proposal and of any written report concerning it shall be delivered with proof of receipt (or mailed by certified mail, return receipt requested) to the entities listed in the statute, including the clerk of each abutting municipality, if there is no planning commission in that municipality. 24 V.S.A. § 4403(e).

Upon submitting any proposed plan, bylaw, amendment or repeal and the written report to the legislative body of the municipality, the planning commission must simultaneously file a copy with the town clerk for public review. 24 V.S.A. §§ 4384 (f), 4403 (f).

B. APPROVAL OF PLATS

Prior to approval of any plat, a properly noticed public hearing must be held by the planning commission or the development review board. Notice of the hearing shall be sent to the regional planning commission, if any, of which such municipality is a member, and to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary, at least 15 days prior to the public hearing. 24 V.S.A. § 4414.

The planning commission or development review board has 45 days after the public hearing in which to approve, modify or disapprove such plat. Failure to act within that period shall be deemed approval of the plat. After a plat is approved, or is deemed approved by failure of the commission or board to act, it must be filed or recorded with the town clerk within 90 days. Failure to file the plat with the clerk will result in its approval expiring at the end of the 90-day period. A plat properly filed shall be a part of the official map of the municipality. 24 V.S.A. §§ 4415-4416.

C. CLERK'S CERTIFICATE

If the validity of a plan, bylaw or adoption thereof is challenged, a certificate of the clerk of the municipality showing the publication, posting, consideration and adoption thereof shall be presumptive evidence of the facts related to the lawful adoption of it. 24 V.S.A. § 4474.

D. ZONING PERMITS AND NOTICES OF VIOLATION

The clerk shall record in the land records of the town land-use permits, denials of land-use permits and other instruments delivered for recording. Temporary permits need not be recorded. A notice of a land-use permit or a notice of violation may be recorded. 24 V.S.A. § 1154. (See also Chapter VII of this handbook.)

XXIII. PROFESSIONAL DEVELOPMENT

A. THE VERMONT MUNICIPAL CLERKS' AND TREASURERS' ASSOCIATION holds an annual meeting in the fall at which clerks and treasurers have the opportunity to exchange ideas and conduct the business of the Association. Seminars developed in conjunction with the University of Vermont Extension Service and the Vermont League of Cities and Towns are offered throughout the year, sometimes at several locations in the state to encourage regional attendance. Topics for these seminars may deal with the legal aspects of the position, the clerk's responsibilities and liabilities, what to keep and what to throw away with regard to minutes, land records, or vital statistics, and the open meeting law. In some areas of the state, county-wide and regional associations meet monthly to maintain communications between clerks and treasurers. The Association also has a certification program and a mentoring program for new clerks.

B. THE NEW ENGLAND ASSOCIATION OF CITY AND TOWNS CLERKS also meets annually. Whereas each state operates under distinct and often dissimilar legislation, rules, regulations and procedures, the founders of the association believed that New England city and town clerks shared more common problems and experiences with each other than with the other sections of our country. Therefore, it was to their mutual benefit and advantage to form a regional organization to exchange opinions, concepts, skills and experiences that would advance and increase knowledge and efficiency in executing the duties of the office. The New England Association of City and Town Clerks is the only regional association of its kind in the United States.

C. THE NEW ENGLAND MUNICIPAL CLERK'S INSTITUTE is educationally affiliated with the New England Association of City and Town Clerks. Salve Regina University in Newport, Rhode Island offers one week in August every year during which municipal clerks can enroll in instructional courses. Not only does this institute have the initial three-year course available, but it also makes available continuing education courses for those clerks who have either completed their basic three-year course, or who have obtained their CMC Certification (see below). The institute is dedicated to bringing to all clerks the means of further developing their knowledge and techniques, as well as keeping them abreast of the numerous changes taking place in local, state and federal government. Courses focus on problem solving, public speaking, report writing, parliamentary procedures and interpersonal relations, to name a few. A written evaluation at the end of the week concludes the experience at the institute.

D. THE INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS (IIMC) meets annually for the purpose of improving the administration of state, provincial, county and local government through officials and/or persons vested with the powers and duties commonly known as clerks, clarks, secretaries, griffiers or recorders. The objectives include, but are not limited to, the following:

- encouraging the use of common terminology, classifications and principles relating to the clerk's duties;
- bringing about the enlistment and training of qualified public officials and employees;
- maintaining central facilities for study and research devoted to improvement of methods and procedures of duties performed by clerks;
- developing, exchanging and disseminating information, ideas and techniques relating to the above-mentioned government bodies; and
- undertaking other programs and activities, as may be proper, to enhance the welfare and progress of government.

The benefits of membership to the IIMC lie in the individual services available, because the Institute is a clearinghouse for the information which clerks need (and the place where they can find it) in order to better carry out their duties. Membership also provides access to members of a management information center, sample ordinance files, publications, surveys and educational opportunities. In addition, it promotes professionalism through the Municipal Clerks Certification Program and its Master Municipal Clerk Academy.

See Appendix 2 for further information.

Appendix 1

State of Vermont Retention Timetable of Municipal Clerks

Permission to destroy the following records is hereby granted, assuming that all material has been checked to insure it has passed its assigned retention period. In addition, the destruction of these records must be immediately reported to Public Records using a standard "Report of Records Destroyed" form, completed and signed by the custodian of the records.

DESCRIPTION	RETENTION PERIOD	DISPOSITION ORDER
Abatement of Taxes, Record of (list of notices of meetings)	3 years after recording	9816.001
Absent Voter Ballot, written application for	22 months after General Election (federal), 90 days after election (local and state)	9816.002
Absent Voter List	22 months after General Election (federal), 90 days after election (local and state) if uncontested	9816.003
Agreement to Amend Employment Contract for purchase of annuity contract	Retain until superseded, or one year after termination of employment, whichever is earlier	9816.004
Agricultural and Forest Land Use Value Appraisal (clerk's copy)	1 year, if recorded	8983.001
Agricultural statistics furnished by listers	3 years	9816.005
Annual certificate showing highway mileage of town	6 years, if recorded	9816.006
Annual Conformance Report – use value appraisal of forest land	Destroy when superseded or withdrawn from program	8983.002
Annual filing of name and address of clerk of corporation	2 years, if the name and address of new clerk is filed	9816.007
Annual Occupational Injuries and Illnesses Survey, Federal Form 200 OSHA	4 years	8983.005
Application for access to highway	1 year, if recorded	8983.007
Application for appointment of guardian, filed in clerk's office to avoid contracts and transfers (usually done by overseers and void if guardian is later appointed)	6 years	9816.008
Application for license to process explosives and copies of licenses issued	Destroy immediately	9816.009
Application to Commissioner of Motor Vehicles for suspension of motor vehicle licenses because of failure to pay poll taxes, copy of	4 years	9816.010
Articles of Association	2 years from date of filing	9816.011
Articles of Association, amendment to	2 years from date of filing	9816.012
Attachment liens, tax liens (originals only)	Destroy those prior to 1980 if recorded	8293.001
Auditors' working paper (used for making up town reports)	6 years after issuance of audit unless there are federal requirements for longer retention	9816.013
Billing support for lien certificate fees, IRS Form 3982	4 years	9100.001
Budget estimates and justification papers	3 years, if audited	9719.001

Appendix 1

DESCRIPTION	RETENTION PERIOD	DISPOSITION ORDER
Building Notification (Notice of Intent to Build)	5 years	9816.014
Building Permit, copies of	5 years, if recorded	9816.015
Caucus meeting, notice of	2 years	9816.016
Census cards and lists	10 years, or until superseded; offer to local historical society, State Historical Society, and Secretary of State's archives	9816.017
Certificate of Amendment or cancellation of limited partnership	10 years after cessation of business	9817.018
Certificate of Appointment as Representative by Governor, copies of	3 years	9817.019
Certificate of Cessation of Business	10 years after cessation of business	9817.020
Certificate of Formation of Limited Partnership	10 years after cessation of business	9817.021
Certificate of Votes for Electors	22 months, if recorded	9817.022
Certified List of Persons receiving old age assistance on April 1, from Director of OAA to town clerk for use of listers	After entries have been made in grand list book; destroy by shredding	9817.023
Chattel Mortgage Book (no real estate involved)	5 years after last entry; offer to local historical society, museum, State Historical Society and State Archives before destroying	9817.024
Checklist, application for addition to	1 year, if Voter's Oath recorded	9817.025
Checklist, application and requests for withdrawal	2 general elections after filing date	9817.026
Checklist, local, primary and general elections	5 years; offer to local historical society and Secretary of State's archives; destroy after 6 months if not accepted	9817.027
Checklist, material for purging	5 years	9817.028
Closed welfare case file created by overseer of the poor	6 years after case is settled and audited	9817.029
Contractor's (mechanic's) lien and release	Destroy or return to sender after recording	9573.002
Description of land and property, filed by railroad at least 10 days prior to meeting of appraisal commissioners	6 years, if recorded	9817.030
Disaster assistance in flood of 1976, various papers related to	3 years	8293.001
Dog Kennel permit	2 years, if audited	9817.031
Dog License receipt	2 years, if audited	9817.032
Dog tag, outdated	1 year, if audited	9817.033
Duplicate creamery license filed with town clerks	Destroy immediately	9817.034
Employment history	2 years after termination of employment; destroy by shredding	9817.035
Fish and Game application, used	3 years	9817.036
Fish and Game receipt (reports to commissioner)	2 years, if audited	9818.037
Fire insurance policy	2 years, if no claim pending	9818.038
Flood Insurance rate map – preliminary	Retain until final map is completed and filed	9818.039
Flood Insurance study – preliminary	Retain until final study is completed and filed	9818.040
Food Stamp report and issuance record, copies of	1 year	9818.041
Grand List	Retain permanently	9819.042
Green Mountain Passport application, copy of	1 year	9818.043

Appendix 1

DESCRIPTION	RETENTION PERIOD	DISPOSITION ORDER
Green Mountain Passport application, originals	25 years or on death of applicant	9219.001
Grievance and Appeal of Taxes	1 year, if recorded in Grand List book	9818.044
Highway Petition by State Dept. of Highways	2 years	9818.045
Hospital lien and Certificate of Discharge	6 years	9818.046
Incorporator's affidavit of proposed issue of stock	2 years from date of filing	9818.047
Index or index transferred to computer	1 year, with printout (9781.1)	9781.001
Junkyard application and license	5 years	9818.048
Laws of Vermont – books	1 year; then offer to local schools, libraries and local historical society (9773.1)	9773.001
Liability insurance policy	6 years if no claim pending	9818.049
Lien, lien note and conditional sales record volume	10 years after last entry	9818.050
Lien and release, all departments of Employment and Training	Destroy or return to sender after recording (9794.1)	9794.001
Liquor license and application	5 years	9818.051
List of dogs owned or kept in their respective towns turned over to municipal clerk	2 years	9818.052
Listers' Tax Map, duplicate copy	When superseded	9390.001
Listers' work paper (Grand List is made from them)	2 years	9818.053
List of Democratic and Republican committees	2 years	9818.054
List of Grand and Petit jurors	1 year, or until new list is made	9818.055
List of justices of peace, certified copies of	2 years	9818.056
Local election – spoiled and used ballots	90 days if uncontested; 90 days after the contestation if contested	9818.057
Local election – unused ballots	90 days	9818.058
Local itinerant vendor's license, including statement and appraisal, copy of	5 years	9818.059
Marriage and Burial stub	2 years, if duplicate record is preserved	9818.060
Medical Certificate (Serological test)	5 years	9819.061
Minutes of meeting	Retain permanently	9819.062
Miscellaneous recorded papers, such as certificate of appointment by selectmen, letter of resignation, organization of school board, organization of selectmen	3 years after recording	9819.063
Mobile Home uniform bill of sale	2 years from date of release	8983.004
Monthly transmittal statement to Department of Health	After verification of Department of Health year-end report	9399.001
Motor Vehicle Racing Permit and Proof of Insurance	6 years	9819.064
Municipal license in compliance with the conditions of municipal ordinances	5 years	9819.065
Neutered/Spayed certificate	15 years, or after death of dog	9820.094
Notice of Sale of Perishable Property	1 year	9819.066
Notice to taxpayer regarding change in appraisal of real estate, copy of	1 year	9819.067
Oath of Office of town officials	3 years, if recorded	9819.068
Official return of vote form or copy of votes and elections – local elections	90 days if uncontested, and one certified copy recorded in the town	9819.069

Appendix 1

DESCRIPTION	RETENTION PERIOD	DISPOSITION ORDER
Official return of vote form or copy of certificate of votes and elections – primary and general elections	22 months if uncontested, and one certified copy recorded in the town	9819.070
On-site sewage program application	Retain permanently	8983.001
Permission for advertisement of liquor and tobacco in public places	After removal or rescission	9819.071
Permit for driveway or new road cut into town right-of-way (requisite to “building permit approval”)	5 years, if building permit recorded	9819.072
Petition for regular and special town meetings	6 years	9819.073
Posted land, annual certificate of	2 years	9819.074
Presidential preference ballots – all	90 days	9819.075
Primary and general elections – spoiled and unused ballots	22 months, if uncontested	9819.076
Primary and general elections – unused ballots	90 days	9819.077
Primary and general elections – warning	90 days, if recorded	9819.078
Primary petition	30 days after election (state); 22 months after general election	9819.079
Private preserve, stocking affidavit	2 years	9820.080
Property or poll tax exemption, claim for	6 years and after audit	9820.081
Property transfer tax return	Permanent	9820.082
Rabies certificate	3 years, or until superseded	9820.083
Rate-able poll	Retain permanently	9820.084
Receipt for funds to state treasurer	2 years, if audited	9820.085
Registration and re-registration of business names by corporations, persons, partnerships and associations (trade names)	1 year after filing re-registration form or 1 year after cessation of business. (Check with Secretary of State to be sure registration form is on file before destroying.)	9820.086
Registration from 17-year old person pursuant to repealed law (once applicant reached the age of 18, he failed to complete the registration process)	Destroy immediately	9820.087
Report of Democratic and Republican caucus and other organized political parties	2 years, then offer to Secretary of State’s archives for their disposal	9820.088
Report of Inspector of Buildings	5 years	9820.089
Resolution presented to and adopted by city council	1 year, if recorded	9820.090
Sanitary Landfill Inspection Report	Retain until superseded	9820.091
School Register	Retain permanently, confidential; see Federal Education Records Protection Act (FERPA) for requirements for release of information.	9820.092
School statistical report	10 years	9820.093
Spayed Certificate, female dogs	Retain 15 years or after death of dog	9820.094
State and federal tax lien and release	Destroy or return to sender after recording	9573.001
Statement, Candidate’s Expenses	3 years, if copies were sent to Secretary of State after receipt	9820.095
Statement and Certificate of Nominations and Consent – local elections	90 days after election	9820.096
Statement and Certificate of Nomination and Consent – primary and general elections	22 months after election	9820.097

Appendix 1

DESCRIPTION	RETENTION PERIOD	DISPOSITION ORDER
Statement of Contract, filed with town clerk in conjunction with lien on logs for wages	1 year	9820.098
Statement of claiming lien for service of stallion	2 years	9820.099
Summary sheet for election tabulations	90 days after election (local, state and presidential preference primaries); 22 months (after general election)	9820.100
Tally sheet for election tabulations	90 days after election (local, state and presidential preference primaries); 22 months (after general election)	9820.101
Tape recordings of all municipal meetings (regular and special)	6 months after recordings have been transcribed and minutes approved by the board	9820.102
Tape recordings of meetings of boards of selectmen or aldermen	6 months after recordings have been transcribed and minutes approved by the board	9820.103
Tax Exemption Certificate (rental agreement) – AT&T	4 years, if superseded or canceled	9100.002
Tax Exemption or Abatement Certificate (Veterans Administration)	6 years and after audit	9821.104
Taxpayers inventory list or poll card	3 years	9821.105
Test Report of State Analysis of water samples	6 years	9821.106
Town approval of motor vehicle gross load weight Form TA-VP-102 (overload permit)	2 years	9821.107
Town Highway Annual Plan Summary submitted to State Highway Department for approval	6 years, if audited	9821.108
Town Liquor Agent's records	Pre-1900 samplings are to be offered to UVM, Vermont Historical Society and Secretary of State's archives	9821.109
Town Officer's bonds	6 years after end of term of office, if recorded	9821.110
Uniform Commercial Code Records, secured transactions	6 years and 2 months from end of calendar year of filing the financing statement, unless 1 or more continuation statements are filed (then 6 years and 2 months from end of calendar of filing the last continuation statement)	9821.111
Vermont Legislative Directory and State Manual	1 year; then offer to local schools, state libraries, local historical society	9773.002
Warning for town and school district meetings	3 months, if recorded	9821.112
Washout report and account (forms filled out for State Transportation Agency requesting aid in repairing flood damage)	10 years and after audit	9821.113
Writ of Attachment – personal property (index is kept for same)	6 years	9822.114
Writ of Execution or other writ, and the return thereon	6 years, if recorded when required	9822.115
Zoning Permit, copies of	Destroy after 2 years; insure that original copy is available through Zoning, and permits issued after April 28, 1997 have been memorialized in land records	9716.001

Appendix 2

The International Institute of Municipal Clerks (IIMC) CERTIFIED MUNICIPAL CLERK PROGRAM

Each Applicant Must:

1. Be a municipal clerk or deputy clerk.
2. Be a member of IIMC for two full years.
3. Affirm and practice the IIMC Code of Ethics.
4. Submit an IIMC Application for Certification form with required documentation and fee.
5. Furnish a letter of sponsorship from a municipal clerk member of IIMC.
6. (Deputy) perform 50% of municipal clerk core duties (see 1-8 in box).
7. Attain 50 points in each of the two categories below for a total of 100 points.
8. Apply for recertification every four years.

Core duties approved by Board of Directors May 1996:

1. Secretariat to the elected body.
2. Meetings of that body and any subordinate committees, boards or commissions.
3. Preparation of agendas/minutes and official documents of such bodies.
4. Maintenance and preservation of bylaws, ordinances or other legal instruments of the elected body.
5. Custody of the municipal seal and the execution of official documents.
6. Management of records and archives of the elected body.
7. Administration of oaths and document certification.
8. Administration of elections.

I EDUCATION (50 points)

	<u>Points</u>
<input type="checkbox"/> Satisfactory completion of an IIMC-recognized Municipal Clerks Institute	50
<input type="checkbox"/> Bachelor degree or higher in Public Administration or related field	50
<input type="checkbox"/> Bachelor degree in an unrelated field and 67 hours of Institute training	50
<input type="checkbox"/> Associate of Arts degree in Public Administration or related field and 67 hours of Institute training	50

(Related fields include but are not limited to political science, government, business administration, accounting, economics, finance or related social sciences.)

II EXPERIENCE (50 points)

	<u>Points</u>	<u>Max</u>
<input type="checkbox"/> Full-time municipal or deputy clerk with administrative responsibility	4 per year	40
<input type="checkbox"/> Part-time municipal or deputy clerk with administrative responsibility	2 per year	40
<input type="checkbox"/> Full-time municipal or deputy clerk with no administrative responsibility	2 per year	30
<input type="checkbox"/> Part-time municipal or deputy clerk with no administrative responsibility	1 per year	30
<input type="checkbox"/> Other full-time administrative positions in local government prior to becoming a municipal or deputy clerk	2 per year	30
<input type="checkbox"/> Administrative position in federal, state or provincial government	1 per year	30
<input type="checkbox"/> Administrative position in business	1 per year	30
<input type="checkbox"/> Attendance at IIMC annual conferences	4 each	20
<input type="checkbox"/> Attendance at IIMC regional and municipal associations or municipal leagues conferences	1 per 6 hrs or 1 day	10
<input type="checkbox"/> Education courses and in-service training relating to your position as municipal clerk	1 per 6 hrs or 1 day	15
<input type="checkbox"/> Satisfactory completion of IIMC-approved home study courses	vary with course	25
<input type="checkbox"/> Business or vocational school courses	1 per 10 hrs of training	10
<input type="checkbox"/> College or university courses	1 per credit hr	25

APPROPRIATE DOCUMENTATION MUST BE FILED WITH APPLICATION

Appendix 2

RECOGNITION OF CMC STATUS

IIMC members who achieve CMC status receive:

- Official recognition of achieving CMC status
- Privilege of using the CMC designation on letterhead, business cards, etc.
- Letters of commendation from IIMC to mayors and other public officials
- The distinctive CMC pin and elegant certificate
- Individualized news releases to local newspapers, radio and television stations
- Appropriate recognition is given to qualified municipal clerks completing their four-year recertification with IIMC. Retired CMCs who maintain IIMC membership may retain their CMC status without being recertified.

THE CMC PROGRAM

The first Certified Municipal Clerk (CMC) Program was offered in 1969 to recognize those municipal clerks who had achieved basic levels of professional competency. The CMC award is granted after an applicant has met specific requirements in education, experience and professional participation.

The CMC Program is available only to municipal and deputy clerks who have been active members of the International Institute of Municipal Clerks for two years. Approximately one in three active IIMC members holds the CMC designation. Continued IIMC membership is required to retain CMC and recertified CMC status.

Appendix 2

AN EDUCATION VISION FOR THE PROFESSION

Our educational vision for the profession recognizes and embraces the need for continual personal and professional development of the municipal clerk. The challenge for all municipal clerks is to grow and develop in a constantly changing world.

Future municipal clerks will need technical and communication skills, administrative and management capabilities, continuous learning opportunities and the personal drive to seize these opportunities.

They must be flexible, willing to assume new and different tasks and undertake new initiatives to improve their status as professionals. They must be open-minded, able to think clearly, willing to adapt and change, and be progressive and proactive in their work environments.

IIMC's central education mission is to provide and facilitate municipal clerk learning opportunities directed towards these ends and to the public good.

(Adopted by the IIMC Board of Directors – May 1994.)

To apply for certification, write to:

International Institute of Municipal Clerks
1212 North San Dimas Canyon Road
San Dimas, CA 91773-1223
Phone (909) 592-4462 • Fax (909) 592-1555
Message Center (800) 251-1639
E-mail hq@iimc.com

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