

MEMORANDUM

TO: Michael Houghton, Select Board Chair
Joseph Lovejoy, Select Board Vice-Chair
Allison Knab, Select Board

FROM: David Moore, Town Administrator

DATE: June 12, 2020

RE: Select Board Agenda and Materials for June 15th Regular Meeting

Please allow this memorandum to serve as a guide to the Select Board Meeting agenda for June 15, 2020.

III. Consideration of Minutes

Draft minutes from your meeting on June 1, 2020 will be provided under separate cover.

IV. Treasurer Report (first meeting of the month)

V. Department Reports & Presentations

The department report will be from Lesley Kimball, Library Director. The Library Board of Trustees are also meeting on this evening, and I have advised Ms. Kimball I would work with the Chair to ensure we would be flexible as to the timing of her availability.

VI. Correspondence

- A. Salt River Condo letter regarding Curbside Collection

VII. Public Comment

VIII. Public Hearings, Ordinances and/or Resolutions

The public hearing on 79E application for 82 Portsmouth Avenue is schedule for June 15th. I have included an updated memo from Town Planner Tavis Austin concerning this application, the process to be followed, and the standards of approval. The memo also includes clarification on the application of the mechanics of applying the tax exemption. Following the public hearing, the Board has 45 days on which to act on the application. That would mean making a final determination on approving and determining length of tax relief. Following Board action, a covenant needs to be entered into, a sample of which is included in the updated memo.

Please let me know if you have any questions leading up to the public hearing. I understand Mr. Daros and Ms. Falk will be present at our meeting location. We have previously received comment from the Heritage Commission (also included in your packet).

IX. Discussion of Monthly Reports (second meeting of each month)

Monthly reports will be submitted for your review. To date, we have only received one report from the Fire Department. This month the deadline falls on the 15th, the night of our meeting.

X. New Business and Action Items

A. Update on Town Offices Operations Plan – Status Report

This week I issued an Operations Plan for the Town Offices (version 1) that defines our efforts to resume face-to-face interactions in the Town Offices. The overall emphasis remains on accessing services remotely wherever possible. We have begun with inviting the public in for services at the Clerk’s Offices (our glass barrier is installed as well as other signage and markings to assist in flow). We also began our employee screening on Tuesday the 9th. During your meeting on the 15th, I can share more about the status of our Operations Plan and hopefully discuss with you updates relevant guidance from the Governor.

B. Curbside Collection Next Steps & RFP Discussion (continued)

At your meeting, I will provide a summary of the input received to date from the CCAC and an update on the timing of the RFP document and completion of legal reviews. Following this update and discussion, we hope to have the ability to release our RFP instrument.

C. Town Meeting Preparations

- a. Route 108 Tax Increment Financial District Outreach
- b. Discussion of Operating Budget, CIP and CRF Articles
- c. Meeting logistics update

Prior to the receipt of this packet, I plan to have communicated with you about a next step in TIF outreach. We can discuss preparations for that event at our meeting.

Using input from your meeting on June 1st, we will have recommended amendments prepared for your review at the meeting for article 10, 11, and 12.

D. Election Preparations

As we discussed at your most recent meeting, Town Clerk Joyce Charbonneau will be present at your meeting to discuss 2020 elections.

I have enclosed in your packet (at the end) a 70 page excerpt from the Election Procedure manual that outlines roles of elected officials, including moderator, Select Board members, Clerks, and Supervisors.

XI. Town Administrator Report

I plan to address additional issues and updates for the Board. If you have any items you want to ensure I address, please let me know.

XII. Informational Items

XIII. Reservations, Event Requests & Permits

XIV. Review of Recent or Upcoming Board & Commissions Agendas

XV. Miscellaneous & Old Business

A. Boards and Commissions Appointments – Planning Board, Rockingham Planning Commission

B. PFAS in Town Center Update

XVI. Adjournment



TOWN OF STRATHAM

INCORPORATED 1716

10 BUNKER HILL AVENUE • STRATHAM NH 03885

VOICE (603) 772-7391 • FAX (603) 775-0517

SELECT BOARD AGENDA

JUNE 15, 2020

TOWN OF STRATHAM

7:00 P.M.

Room A, Stratham Municipal Center

10 Bunker Hill Avenue- Stratham, NH 03885

This meeting of the Select Board will be held in Room A of the Stratham Municipal Center

Public Health Emergency Note: Any member of the public choosing to attend this meeting will be required to adhere to the signage and protocols for social distancing in the Town Offices (which include wearing a mask and maintaining 6 foot distancing). A teleconference line is available to listen in to the meeting as another option.

The public may access this meeting at the date and time above using this conference call information. Please dial the conference number **(877) 205 7349** and input **2254** when prompted for a user pin/code.

If at any time during the meeting you have difficulty, hearing the proceedings, please call 603 772-7391 ext. 187.

To access materials related to this meeting, please see this link:

<https://www.strathamnh.gov/select-board>

- I. Call to order
- II. Roll Call
- III. Consideration of Minutes – June 1, 2020
- IV. Treasurer Report (first meeting of the month)

The Select Board reserves the right to take up business in any order deemed appropriate by the Chair. A motion to enter Non-Public Session in accordance with RSA 91-A:3 may occur at any time during the meeting. Submission of items to be placed on the Agenda must be to the Town Administrator by 4 pm the Wednesday before the scheduled meeting.



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- V. Department Reports & Presentations – Wiggin Memorial Library - Lesley Kimball, Dir.
- VI. Correspondence
 - A. Salt River Condo letter regarding Curbside Collection
- VII. Public Comment
- VIII. Public Hearings, Ordinances and/or Resolutions
 - Public Hearing 79-E Application – 82 Portsmouth Avenue
- IX. Discussion of Monthly Reports (second meeting of each month)
- X. New Business and Action Items
 - A. Update on Town Offices Operations Plan – Status Report
 - B. Curbside Collection Next Steps & RFP Discussion (continued)
 - C. Town Meeting Preparations
 - a. Route 108 Tax Increment Financial District Outreach
 - b. Discussion of Operating Budget, CIP and CRF Articles
 - c. Meeting logistics update
 - D. Election Preparations
- XI. Town Administrator Report
- XII. Informational Items
- XIII. Reservations, Event Requests & Permits
- XIV. Review of Recent or Upcoming Board & Commissions Agendas
- XV. Miscellaneous & Old Business
 - A. Boards and Commissions Appointments
 - B. PFAS in Town Center Update
- XVI. Adjournment

Board of Directors
Salt River Condominium Association
PO Box 231
Stratham, NH 03885

June 7, 2020

David Moore, Town Administrator
Town of Stratham
10 Bunker Hill Avenue, Stratham, NH 03885

Re: Automated curbside trash collection

Dear Mr. Moore,

We very much appreciate that Town leaders are open to and actively seeking input from residents regarding the proposal to shift to automated curbside trash collection. The establishment of an advisory committee and a town-wide survey are especially commendable. On behalf of the 78 owners of our condominium association, we, the members of the Board of Directors of Salt River, want to share our perspective, which is based on the unique setting of our residential community. In short, the current plan is not workable for us for functional, impracticability, and esthetical reasons, which we will describe.

This is not to say that the plan is unreasonable; overall, automation and efficiencies are a normal course of business activity and we applaud the Town's efforts to look at cost-saving measures. And it is possible that it could work for most of the town's residences. But the plan would not work in our setting of 78 residential 1- and 2-bedroom units among 13 buildings.

One of the key challenges to implementation within our community is that we do not have unencumbered curbsides the way traditional residences do. At the end of our walkways, the curbsides are adjacent to parking spaces, so vehicles would block access to the trash collection arm. At some buildings on our property, residents place trash and recycling on sidewalks, and the collectors are able to walk between vehicles and collect. At other buildings, residents place trash on small open spaces adjacent to parking spaces. The trash is grouped together, rather than lined up in a linear manner. So even at these small open spaces, we would not be able to accommodate the spacing needs of the collector arm, which typically call for totes to be set 3 to 5 feet apart from other containers or obstacles, such as trees, posts, etc., and no more than 5 feet from the curb. So, while a truck can drive

down a town road and stop to collect one or two containers at well-spaced intervals based on the frontage of most single-family residences, we do not have that capacity in our multi-residential setting.

Further to the challenges, the use of large toters would not be practical for many of our residents. Some of our residents currently use modest 32-gallon residential containers and many use no container at all, just heavy-duty black trash bags. This minimizes visual impact, but it also is necessary because of our physical landscape. Residents generally store their trash cans in a small space at the rear of their own unit, and recyclables are generally stored indoors. But because of the landscape, for some buildings, it is not possible to roll receptacles to the pick-up location; they need to be carried or lifted in some cases. Residents who are not physically able to carry out a trash can typically carry out trash bags. Many residents would be unable to physically move the industrial toters, given that rolling with wheels is not an option. And the loss of the option to use loose trash bags, without a container, would create a hardship for residents who are physically unable to manipulate large containers.

As you may know, our Salt River community was created with respect for natural resources and the establishment of a conservation easement. Esthetics is an important aspect of our community, our lifestyle, and our property values. The prospect of scores of industrial-size 64-gallon and 96-gallon containers placed throughout the modest scale of our community (before, during, and after collection) is unpleasant and harmful to our rural esthetic. It would adversely affect the lifestyle of our residents and the value of our properties.

We thank you for your attention and consideration of our concerns. If the plan is to be adopted, we respectfully request an exemption from the plan, and the maintenance of the current system of collection.

We are happy to meet and discuss with you or a designee if you have any questions. We would appreciate if your office could distribute a copy of this communication to the Curbside Collection Advisory Committee prior to or at the Committee's upcoming meeting on June 8, 2020.

Respectfully,

Suzanne Woodland, President, 47 Brookside Drive, Stratham (e-mail swfrom3809@outlook.com)

Bob Wertz, Treasurer, 46 Brookside Drive, Stratham (e-mail bobwertz1@comcast.net)

Board of Directors, Salt River Condominium Association

Cc: Lorraine McGuire, Tony Reynolds, Sandy Hill (Board Members)
Staci McCann, Property Manager, Great North



TOWN OF STRATHAM

Incorporated 1716

10 Bunker Hill Avenue · Stratham, NH 03885

Town Clerk/Tax Collector 603-772-4741

Select Board's Office/ Administration/ Assessing 603-772-7391

Code Enforcement/Building Inspections/Planning 603-772-7391

PUBLIC HEARING

LEGAL/PUBLIC NOTICE

SELECT BOARD

TOWN OF STRATHAM

Notice is hereby given that the Stratham Select Board will conduct a Public Hearing to accept public input on an application in accordance with RSA 79-E for 82 Portsmouth Ave., Stratham, NH 03885, Tax Map 13 Lot 127, on June 15, 2020 beginning at 7:00 pm. The meeting will be held in Room A, of the Stratham Municipal Center located at 10 Bunker Hill Avenue, Stratham, NH 03885. The meeting will also be accessible via teleconference call (1-877-205-7349, access code 2254).

The Application can be accessed via the Town's website at:

https://www.strathamnh.gov/sites/strathamnh/files/uploads/2020.04.14_79e-82portsave_web.pdf

The application may be viewed in hard-copy by contacting the Stratham Town Clerk at (603) 772-4741 ext. 140 to make an appointment.



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Code Enforcement/Building Inspections/Planning 603-772-7391

Fax (All Offices) 603-775-0517

June 15, 2020

TO: Select Board
Town Administrator

FROM: Tavis Austin, AICP, Town Planner

RE: 79-E Application for 82 Portsmouth Ave., Tax Map 13 Lot 127

Select Board,

The Town has received an application under RSA 79-E, Community Revitalization Tax Incentive, from the above referenced property. The purpose of this memo is to:

- Provide a summary of the application,
- Outline the eligibility of the proposed project in accordance with the applicable New Hampshire Statutes and Town authority,
- Summarize the process the Select Board is required to follow,
- Outline the next steps for the Board's processing of the application,
- Provide options for the Board's consideration in following that process, and
- To outline the result of the Board's decisions related to the application.

Summary of Application

The submitted application outlines the owner's request for a period of property tax relief, as provided under RSA 79-E, as they intend to renovate the existing structure for use as a single-family home. The scope of proposed work will include the following work items detailed in the application:

- Replace rotten beams & posts in basement and kitchen; pour cement slabs; supports for connecting shed; new slab in barn at an estimated cost of \$50,000.00
- Upgrade to 200 Amp Panel, new metal pan & mast; rewire entire house at an estimated cost of \$30,000.00
- Install refurbished antique cast iron radiators; radiant heat in kitchen and bathrooms; new boiler and oil tanks at an estimated cost of \$20,000.00
- Refinish floors; repair plaster and trim; open up existing fireplaces and line chimneys; all new bathrooms and kitchen at an estimated cost of \$80,000.00.

The total renovation project cost as proposed in the application is \$180,000.00. This work is proposed to be completed by 2025. The submitted application materials have been reviewed by staff, and found to be complete for purposes of engaging the Select Board for their role in the process. To that end the first step is to determine whether the property is eligible for the relief requested.

Staff Note: At the end of this memo—page 5—are minor amendments to the submitted application materials that need to occur; they are each outlined below.

Eligibility

In accordance with statute and Town regulations, a property owner can apply for the tax relief only if:

- *The building is located in the Town Center or Professional /Residential Zoning Districts*
 - This property is appropriately located in the Professional/Residential Zoning District.
- *The rehabilitation costs at least 15% of the building's pre-rehab assessed value, or \$75,000, whichever is less, and*
 - 15% of the current assessed value (\$314,300.00 as of April 01, 2020) is \$47,145. As the proposed work—from above—is \$180,000.00, this condition has been satisfied.
- *The rehabilitation is consistent with the Stratham's Master Plan or development regulations.*
 - The proposed work is consistent with the Master Plan and development regulations. *In particular the Master Plan has a section entitled 'Historic Resource Preservation' that calls out the importance of preservation and restoration of historic properties; even referencing 79-E, as a tool. Further, the proposed work is in compliance with all applicable zoning regulations and will be built in compliance with all applicable building codes.*

The proposed project is eligible for consideration of the relief sought.

Application Review Process

RSA 79-E provides a succinct process for the Board to use in considering applications. In terms of process the Board must:

- Accept the application as complete (*May 18, 2020*);
- Hold a Public Hearing on the request (*advertised for June 15, 2020*)
- Make a formal determination on the request. Such a determination must be made within 45 days of the close of the public hearing.

Options for Board Action

Following the public hearing, the Board may approve or deny a request. In approving, the Board must determine the value of the relief to be granted consistent with 79-E: 13, and the number of years such relief will be granted.

The Town of Stratham may grant property tax relief of **up to 5 years**, beginning with the completion of substantial rehabilitation. At its discretion, the Town may add:

- An additional 2 years for a project that results in new residential units.
 - *This project does not qualify.*
- An additional 4 years for a project than includes affordable housing.
 - *This project does not qualify.*

- An additional 4 years for substantial rehabilitation of a qualifying historic structure provided that renovations is in accordance with the U.S. Secretary of Interior’s Standards for Rehabilitation.
 - *Project may qualify.*

In exchange for the relief, the property owner grants a covenant—draft included with application materials--ensuring there is a public benefit to the rehabilitation. Following expiration of the finite tax relief period, the structure would be taxed at its full market value taking into account the rehabilitation.

The criteria for granting the relief are outlined in the statute, specifically 79-E:4, IV. (a), provided:

- (1) The governing body finds a public benefit under RSA 79-E:7; and**
- (2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and**
- (3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and**
- (4) (This section refers to “replacement” of structures - not included here as the proposed project is not a replacement)*
- (b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8**

The submitted application provides the applicant’s responses to these criteria for the Board to consider. Also in the submitted materials, as mentioned previously, is a draft of the covenant as stipulated by 79-E:4, IV (b), above.

Another option for the Board is to deny the request. If such a vote is taken, the statute requires the Board to notify the Applicant of the Board’s rationale for not granting the relief as outlined in 79-E:4 V.

Estimated Value of Tax Relief for 82 Portsmouth Avenue/Effect of Granting Relief

The Board may also wish to consider general tax impacts of granting the requested relief. The proposed improvements could raise the assessed value of the home by \$210,000, which would result in an increase of \$4,000-\$5,000 additional tax revenue annually; of which the Town would not benefit for the period of the relief granted. These financial estimates were developed in consultation with Andrea Lewy, Assessor, and should not be construed as absolute values or predictions.

Next Steps

As the Board has accepted the application as complete and scheduled, the next step is to convene the public hearing, and, following its conclusion, move toward making a determination as to grant or deny the application as outlined above. Should the Board request or require additional assistance from staff in processing this application, please so advise.

Detail of Application Form Amendments as discussed Page 1 of this memo:

Text of Email from Robert Daros; received 2020.04.23

Hello Travis, thank you for the email.

I most certainly give you permission to amend the document as asked (**See Staff email, below**)

Secondly, we have **already started work** on the house.

It is a long term project that **we hope to have completed in year 2025**.

If you have anything thing else, please reach out to me.

Best Regards, Bob.

Robert Daros

Heritage Fuel & Propane

8 Front St.

P.O. Box 513

Croton Falls N.Y. 10519

W (914) 277- 8088

C (914) 906- 5520

Above information reported in response to the following Staff request:

On Apr 17, 2020, at 1:03 PM, Tavis Austin <TAustin@strathamnh.gov> wrote:

Mr. Daros,

This email is to confirm receipt of your recently submitted 79-E application materials for 82 Portsmouth Ave. (attached here for reference only). In terms of process, I will soon be forwarding a memo to the Select Board advising them of the application and the related process steps they are to follow in consideration of the request. In order to do so, however, there are some “blanks” in the application form that require some attention—some I can assist with, others require input from you. *Note: I have copied Andrea Lewy, Town Assessor, on this email to keep her informed of this application and its related process.*

First, **can you please provide me permission to amend page one (1) of Part 2 of the application to include the following: Tax Map and Lot number, Zoning District designation, and HCRD Book and Page? Respectively: Tax Map 13 Lot 127, Professional Residential (PRE), and Book 5993 Page 1127 (Emphasis added)**

Second, on page 4 of Part 2, you did not specify **an expected project start date nor an expected project completion date (Emphasis added)**. Can you please provide me with those date details?

Once these details are complete, the Board can make a determination as to application completeness and then move to the public hearing phase of their review. I am happy to address any questions you have at this time or as the process proceeds. I look forward to working with you on this.

Regards,

Tavis

Tavis Austin, AICP

Town Planner

Town of Stratham

Below is some additional information provided by Andrea Lewy, Town Assessor to assist you in understanding the implications and timeframes related to the requested tax relief:

June 1, 2020

RE: 82 Portsmouth Avenue – Map 13 Lot 127

Robert Daros & Ellen Falk

Application for RSA 79-E Community Revitalization Tax Relief Incentive

Dear Select Board,

Robert Daros and Ellen Falk have submitted an application requesting the Select Board to consider approval of their request to receive the benefits of RSA 79:E, Community Revitalization Tax Relief Incentive for their home located at 82 Portsmouth Avenue. Following is a summary of how the process works regarding Assessing if you choose to grant the application.

What happens to the assessment when granted? The simple answer is this; from the time the application is approved the assessment remains the same even after it receives the Certificate of Occupancy. Once they receive the Certificate of Occupancy the assessment still remains the same as it was from the beginning and does not increase until the number of years has passed that the Board granted relief.

Example: On July 1, 2020 the Select Board approves RSA 79:E for five years. The Assessor will determine the value/assessment as of the approval date – July 1, 2020. That assessment will not increase until five years after they receive their Certificate of Occupancy. So if the Certificate of Occupancy is issued July 1, 2025, the assessment will remain the same as July 1, 2020 until July 1, 2030.

Note: In speaking with other Assessors throughout the state, it is believed that ***no*** single family property that will ***remain a single family only property***, has been granted this tax relief to date. To the best of all the Assessor's knowledge, this has only been granted to historic homes that were being converted into office space, office space with living quarters or some type of retail store combination.

79-E:5 Duration of Tax Relief Period. –

I. The governing body may grant such tax assessment relief for a period ***of up to 5 years***, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the

owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up **to an additional 4 years of tax relief** for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

I hope this information is helpful.

Be safe and well,

Andrea

Andrea S. Lewy, CNHA
Stratham Assessor

This is the text of an email received from the Heritage Commission related to this application:

From: Stratham Heritage Commission: <Heritage@StrathamNH.gov>

Sent: Monday, May 18, 2020 11:47 AM

To: David Moore <dmoore@StrathamNH.gov>; Michael Houghton (mike@dowlingcorp.com)
<mike@dowlingcorp.com>; Andrea Lewy <Alewy@StrathamNH.gov>

Subject: RSA79E Application for 82 Portsmouth Ave.

At its meeting of May 13, 2020 the Heritage Commission voted to support the application of Ellen Falk and Robert Daros, owners, for a RSA 79E Discretionary Preservation Easement on their property at 82 Portsmouth Avenue. We urge the Select Board to approve the application for no tax increases attributable to rehabilitation for the allowed 5 years and for an additional 4 years because of this property's historical importance.

Qualification:

This property qualifies for RSA 79E tax relief because it lies within the Professional/Residential District where the Town has elected to apply this preservation incentive.

Required Findings:

Public Benefit

The rehabilitation of this historic property, prominently located on Portsmouth Ave., adjacent to both the Municipal Center and the recently acquired Smyk Park, has long been a Stratham landmark even through years of limited maintenance and public concern for its future. The work both begun and planned by the current owners represents a significant investment in both this property and the Town's inventory of historic properties.

Future Protection

The Town's interest in this property will be protected not only by the covenant required for a RSA 79E Discretionary Preservation Easement but it is further protected in perpetuity by the Preservation Easement held and monitored by the New Hampshire Preservation Allowance. This easement prevents demolition and requires that work on the property meet the Secretary of the Interior's Standards for Rehabilitation.

Consistent with Master Plan

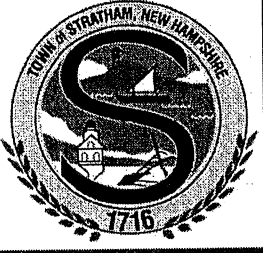
The Town's recently adopted Master Plan makes a strong case for the value of preserving Stratham's historic resources. The Bartlett-Cushman House, 82 Portsmouth Ave., is listed on the National Register of Historic places both for its architectural distinction and for the story it tells of Stratham's evolution over two centuries. The improvements being made now will ensure the property's viability into a third century of use to its owners and of public appreciation of its history.

Stratham Heritage Commission

10 Bunker Hill Ave.

Stratham, NH 03885

(603) 778-7979



Community Revitalization Tax Relief Incentive Program

(NH RSA 79-E)

Application For Community Revitalization Tax Incentive

The following documents contain everything you will need to complete your application for tax relief to revitalize your building. PLEASE read everything carefully. The application instruction and materials are based upon the requirements set forth by NH RSA 79-E. You will need to fill out the application, take part in a public hearing with the Board of Selectmen, and execute a covenant with the Town. If you have any questions with the application, the process, or what to expect, please contact the Town Planner at (603) 772-7391 ext. 147 or planning@strathamnh.gov.

Included In This Application Packet:

1. Application Instructions
2. Application form
3. Covenant to Protect Public Benefit template
4. RSA 79-E Community Revitalization Tax Relief Incentive District Map
5. Text of RSA 79E (to be read and understood by the applicant at the time of application)



Part 1: Instructions for Applicants

1. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the Board of Selectmen through the Planning Department. The applicant shall file a complete application form including the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and submit the required non-refundable application fee of \$200.00.

In order to assist the Board of Selectmen with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the Board Of Selectmen as part of the application, a New Hampshire Division of Historical Resources Individual Resource Inventory Form, prepared by a qualified architectural historian and if the qualifying structure is located within a designated historic district established in accordance with NH RSA 674:46, a letter from the Stratham Heritage Commission that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which the structure(s) are located.

The application for tax relief shall not be deemed to be complete and the Board of Selectmen shall not schedule the public hearing on the application for replacement of a qualifying structure as required under NH RSA 79-E:4,II until the inventory form and letter, as well as other required information, have been submitted.

2. Upon receipt of an application, the application will be reviewed by the Town Planner and any other Town official deemed appropriate. The applicant must satisfactorily answer any questions they may have for the application to be deemed complete.
3. The Board of Selectmen will hold a duly noticed public hearing to take place no later than 60 days from receipt of an application, to determine whether the structure at issue is a qualifying structure; whether the proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.
4. No later than 45 days after the public hearing, the Board of Selectmen shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.
5. The Board of Selectmen may grant the tax relief, provided:
 - a. The Board of Selectmen grant the request by a majority vote; and
 - b. The Board of Selectmen finds a public benefit under RSA 79-E:7; and
 - c. The specific public benefit is preserved through a covenant under RSA 79-E:8; and
 - d. The Board of Selectmen finds that the proposed use is consistent with the municipality's master plan, Zoning Ordinance, and development/land-use regulations; and



Instructions for Applicant (continued)

- e. In the case of a replacement, the Board of Selectmen specifically finds that the Stratham Heritage Commission has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of a qualifying structure will achieve one or more of the public benefits identified in RSA79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement.
6. If the Board of Selectmen grants the tax relief, they shall identify the specific public benefit achieved under RSA 79-E:7 and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.
7. If the Board of Selectmen, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The Board Of Selectmen's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for bad faith or discrimination.
8. The Board of Selectmen shall have no obligation to grant an application for tax relief for properties located within a tax increment finance district when the Board of Selectmen determines, in its sole discretion that the granting of tax relief will impede, reduce, or negatively affect:
 - a. The development program or financing plans for such tax increment finance districts;
or
 - b. The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment finance district; or
 - c. The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.



Community Revitalization Tax Relief Incentive Program (NH RSA 79-B)

Part 2: Application Form

OFFICE USE ONLY
(do not write in shaded area)

Date Application Submitted: _____ App _____ Received by: _____

Building Information

Building Name (if any): BARTLETT - CUSHMAN HOUSE

Building Address: 82 PORTSMOUTH AVE STRATHAM NH 03885

Stratham Tax Map: _____ Lot: _____ Zoning District: _____ HCRD Book: _____ Page: _____

Contact throughout this application process will be made through the applicant listed below.

The property owner may designate an agent as the coordinator for the project. This person (the applicant) shall attend public hearings, will receive comments, recommendations, staff reports, and will communicate all case information to other parties as required.

The Property Owner may act as the Applicant. If so, list under Applicant's Name, "Owner", and complete owner's information

Applicant's Name: ROBERT + ELLEN DAROS Owner's Name: SAME

Address: 82 PORTSMOUTH AVE Address: 725 TITICUS RD

City: STRATHAM State: NH Zip: 03885 City: NO. SALEM State: NY Zip: 10560

Phone: 914-485-1059^(H) Fax: 914-906-5520(C) Phone: 914-485-1059^(H) Fax: 914-906-5520(C)

E-mail: bob@heritagefuel.com Email: bob@heritagefuel.com

Existing Building Information

Existing Uses (describe current use, size, and number of employees): UNINHABITABLE HOUSE THAT WILL BE RESTORED AND MAINTAIN ITS ORIGINAL FEATURES.

Gross Square Footage of Building: 3800 Year Building was Built: 1827 EST.

- Is the building listed on or eligible for listing on the National Register of Historic Places? Yes No
- Is the building listed on or eligible for listing on the state register of historic places? Yes No
- Is the building located within and important to a locally designated historic district? Yes No



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Project Description

Proposed Uses (describe use, size, and number of employees): TO BECOME A SINGLE FAMILY HOME

Is this a change of use associated with this project? Yes No

Will the project include new residential units? Yes No

If yes, please describe: _____

Will the project include affordable residential units? Yes No

If yes, please describe: _____

Has an abatement application been filed or has an abatement been awarded on this property within the past year? Yes No

Will any state or federal grants be used with this project? Yes No

If yes, describe and detail any terms of repayment: _____

Replacement of Qualifying Structure

Does the project involve the replacement of a qualifying structure? Yes No

If yes, the owner shall submit with this application the following:

1. A New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian.
2. A letter from the Stratham Heritage Commission that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located.

Note: The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted, if required.



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Public Benefit (RSA 79:E-7)

In order to qualify for tax relief under this program, the proposed substantial rehabilitation must provide at least one of the public benefits listed below. Any proposed replacement must provide one or more of the public benefits listed below to a greater degree than would a substantial rehabilitation of the same qualifying structure.

Does the project provide the following public benefits?
(Check all that apply)

Yes No

Enhances the economic vitality of the designated area.

If yes, please describe: FOR MANY YEARS THIS HISTORIC HOUSE WAS UNINHABITED. IT HAS BEEN DEMONSTRATED IN N.H. COMMUNITIES THAT HISTORIC BUILDINGS REHABILITATED AND RETURNED TO USE, GENERATE POSITIVE ECONOMIC ENERGY

Enhances and improves a culturally or historically important structure?

Yes No

If yes, please describe: FOR MORE THAN 20 YEARS THIS WAS AN "AT RISK" PROPERTY. WITH OUR COMMITMENT TO REHABILITATION, WE ARE PRESERVING A HOUSE WITH SIGNIFICANT ARCHITECTURE AND IT'S CONNECTION TO THE BARTLETT FAMILY AND IT'S SIGNIFICANCE IN STRATHAM

Promotes development of the designated area, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B.

Yes No

If yes, please describe: IS CONSISTENT WITH RSA-9-B. THE REHABILITATION CONTRIBUTES TO THE PROTECTION OF THIS HISTORIC HOME THAT IS IN A PROFESSIONAL ZONE. IT IS ADJACENT TO OTHER HISTORIC STRUCTURES AND SMYK PARK.

It increases residential housing in the Professional Residential and Town Center Districts?

Yes No

If yes, please describe:

Other issues and matters applicant deems relevant to this request: WE THE APPLICANTS NEGOTIATED WITH THE TOWN AND N.H. PRESERVATION ALLIANCE SO THAT AT THE TIME OF PURCHASE AND FOR PERPETUITY THAT THE HOUSE WILL BE PROTECTED AND PRESERVED ACCORDING TO THE TERMS.



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Substantial Rehabilitation

Describe the work to be done and estimated costs.

1. Attach additional sheets if necessary and any written construction estimates.
2. Attach any project narratives, plot plans, building plans, sketches, renderings, or photographs that will help explain this application.

Structural: <u>REPLACE ROTTEN BEAMS + POSTS IN BASEMENT + KITCHEN. FOUR CEMENT SLABS. SUPPORTS FOR CONNECTING SHED. NEW SLAB IN BARN.</u>	\$ <u>50,000</u>
Electrical: <u>UPGRADE TO 200 AMP PANEL. NEW METER PAN + MAST. REWIRE ENTIRE HOUSE.</u>	\$ <u>30,000</u>
Plumbing/Heating: <u>INSTALL REFURBISHED ANTIQUE CAST IRON RADIATORS, RADIANT HEAT IN KITCHEN + BATH ROOMS. NEW BOILER AND OIL TANKS.</u>	\$ <u>20,000</u>
Mechanical: _____	\$ _____
Other: <u>REFINISH FLOORS. REPAIR PLASTER + TRIM. OPEN UP EXISTING FIREPLACES + LINE CHIMNEYS. ALL NEW BATHROOMS + KITCHEN</u>	\$ <u>80,000 EST</u>
Total Estimated Project Cost:	

Expected project start date: _____

Expected project completion date: _____



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Applicant/Owner Signature

The undersigned hereby certifies the foregoing information is true and correct:

Robert Duros
Signature

Robert Duros
(printed name)

4/10/2020
Date

Ellen Falk
Signature

Ellen Falk
(printed name)

4/10/2020
Date

Signature

(printed name)

Date

Signature

(printed name)

Date



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Part 3: N.H. R.S.A 79-E Covenant To Protect Public Benefit

TOWN OF STRATHAM, NEW HAMPSHIRE
COVENANT TO PROTECT PUBLIC BENEFIT
Per RSA 79-E:8 (Community Revitalization Tax Relief Incentive)

I (We) ROBERT + ELLEN DARS [name] of 82 Poetsmouth Ave [address], Stratham, NH 03885 (hereinafter referred to, collectively, if appropriate, as "GRANTOR") owner(s) of BAOTLETT/USHAMMITE [property] situate at State [address], Stratham, NH (hereinafter referred to as the "PROPERTY"), for (myself/ourselves/itself) and for (my/our/it's) successors and assigns, for consideration of tax relief granted to GRANTOR by GRANTEE pursuant to the provisions of RSA 79-E, agree to the following covenants imposed by the Town of Stratham, (hereinafter referred to as "GRANTEE"), 10 Bunker Hill Avenue, County of Rockingham, State of New Hampshire.

These covenants are made in exchange for property tax relief granted with respect to the PROPERTY as a result of the substantial rehabilitation of the PROPERTY to be accomplished by the GRANTOR in accordance with GRANTOR proposal (specific approved scope of work is attached as "CHAPTER 79-E COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE ADDENDUM") approved by GRANTEE on [date of Board of Selectmen approval].

This COVENANT is to protect the public benefit in accordance with the provisions of RSA 79-E for a term of ____ [number of year] years, beginning on April first of the first tax year commencing immediately after the completion of the rehabilitation work. Notwithstanding the foregoing, the contemplated tax relief shall be null and void if the proposed rehabilitation work is not completed by March 31st [deadline year for completion].

The PROPERTY is designated as a portion of Tax Map [number] Lot [number] in the Town of Stratham. For further reference to GRANTOR'S title, see deed recorded at Book [reference], Page [reference], Rockingham County Registry of Deeds.

The GRANTEE agrees that the PROPERTY, if substantially rehabilitated in accordance with GRANTOR'S proposal approved by GRANTEE on [date of Board of Selectmen approval] provides a demonstrated public benefit in accordance with the provisions of RSA 79-E:7 inasmuch as the substantial rehabilitation of said property:

- I. Enhances the economic vitality of the Town Center and Professional/Residential Districts.
- II. Enhances or improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located.
- III. Promotes development of the Professional Residential and Town Center Zoning Districts, providing for efficiency, safety and a greater sense of community consistent with RSA 9-B.
- IV. Increases residential housing diversity and opportunities. The Town of Stratham Board of Selectmen held a public hearing on _____ [date of Board of Selectmen approval] and at that meeting made the following findings consistent with and required by RSA 79-E: 7



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

& 8. The terms of the COVENANT which is hereby granted by the GRANTOR to the GRANTEE with respect to the above described PROPERTY are to be co-extensive with the tax relief period and are as follows:

SUMMARY OF FINDINGS.

(Insert summary of findings if desired).

GRANTOR'S COVENANTS.

REHABILITATION OF PROPERTY. The Grantor agrees to substantially rehabilitate the PROPERTY during the term of this Agreement in accordance with GRANTOR'S proposal approved by GRANTEE on _____ [date of Board of Selectmen approval]. The substantial rehabilitation contemplated by GRANTOR'S proposal approved by GRANTEE on _____ [date of Board of Selectmen approval] shall be completed by the GRANTOR on or before March 31, _____ [deadline year]. All of the work on the attached scope of work must be completed in order for the tax relief to take effect. If only some of the work on the attached scope of work is completed prior to March 31, _____ [upcoming year] or March 31, _____ [following year], then the PROPERTY shall be fully assessed for the value of that work during the tax year(s) commencing [upcoming year] and/or _____ [following year].

MAINTENANCE OF THE PROPERTY. The GRANTOR agrees to maintain, use and keep the structure in a condition that furthers the public benefits for which the tax relief was granted and accepted during the term of the tax relief under RSA 79-E.

(Insert any particular restrictions such a signage, maintenance of building and its surroundings, other structure and so forth, as may be agreed upon between the Grantor and Grantee.)

REQUIRED INSURANCE, USE OF INSURANCE PROCEEDS, AND TIMEFRAME TO REPLACE OR REMOVE DAMAGED PROPERTY. The GRANTOR agrees and is required to obtain and maintain casualty insurance, as well as flood insurance, if appropriate. As permitted by RSA 79-E:8, this COVENANT shall be a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition or damaged structures and property. The GRANTEE further requires that the restoration or demolition commence within one year

following any insurance claim incident; otherwise the GRANTOR shall be subject to the termination provisions set forth in RSA 79-E:9, I.

RECORDING. The GRANTEE agrees to and shall provide for the recording of this COVENANT with the Rockingham County Registry of Deeds. It shall be a burden upon the PROPERTY and bind all transferees and assignees of such PROPERTY. The GRANTOR will be solely responsible for payment of the recording fees.



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

ASSESSMENT OF THE PROPERTY. The GRANTEE agrees that the PROPERTY shall be assessed, during the term of the Tax Relief Granted based on the pre-rehabilitation value or such other value utilized by the Assessor to address improvements not covered by RSA 79-E. If the terms of these covenants are not met, the Property Tax Relief will be discontinued. Furthermore, the GRANTEE will assess all taxes to the owner as though no tax relief was granted, with interest in accordance with RSA 79-E:9, II.

RELEASE, EXPIRATION, CONSIDERATION.

I. **RELEASE.** The GRANTOR may apply to the local governing body of the Town of Stratham for a release from the foregoing discretionary tax relief and associated COVENANT within the duration of the tax relief period of the RSA 79-E upon a demonstration of extreme personal hardship. Upon release from such covenants, the GRANTOR shall thereafter pay the full value assessment of such structure(s) and land to the Tax Collector of the Town of Stratham.

II. **EXPIRATION.** Upon final expiration of the terms of the tax relief and associated covenants the tax assessment will convert to the then full fair market value and these covenants will be concluded.

III. **CONSIDERATION.** The Tax Collector shall issue a summary receipt to the owner of such PROPERTY and a copy of the governing body of the Town of Stratham for the sums of tax relief accorded during the term of this Agreement. The local governing body shall, upon receiving a copy of the above-mentioned consideration, execute a release of the COVENANT to the GRANTOR who shall record such a release with the Rockingham County Registry of Deeds. A copy of such release or renewal shall also be sent to the local assessing official.

IV. **MAINTENANCE OF STRUCTURE.** If, during the term of the tax relief, the GRANTOR shall fail to maintain the structure in conformity with the foregoing agreement, or shall cause the structure(s) to significantly deteriorate or be demolished or removed, the covenants shall be terminated and a penalty shall be assessed in accordance with Paragraph I(a) above.

ENFORCEMENT. If a breach of this COVENANT is brought to the attention of the GRANTEE, the GRANTEE shall notify the GRANTOR, in writing of such breach, which notification shall be delivered in hand or by certified mail, return receipt requested to the GRANTOR.

The GRANTOR shall have 30 days after receipt of such notice to undertake those actions, including restorations, which are reasonably calculated to cure the said breach and to notify the GRANTEE thereof.

If the GRANTOR fails to take such curative action, the GRANTEE may undertake any actions that are reasonably necessary to cure such breach, and the cost thereof, including GRANTEE'S expenses, court costs and legal fees, shall be paid by the GRANTOR, provided the said GRANTOR is determined to be directly or indirectly responsible for the breach.

The GRANTOR, by accepting and recording this COVENANT to the GRANTOR agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein provided for and incumbent upon the GRANTEE, all in furtherance the purposes for which this Tax Relief and associated COVENANT is delivered.

WITNESS MY/OUR/IT'S HAND this 10TH day of APRIL, 2020.



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Cary Malit

Witness

Robert Daros

Grantor

ROBERT DAROS

Print Name

Cary Malit

Witness

Ellen Falk

Grantor

Ellen Falk

Print Name

STATE OF ~~NEW HAMPSHIRE~~ New York
COUNTY OF ~~ROCKINGHAM~~ westchester

On this 10th day of April, 2020, personally appeared the above

Robert Daros and Ellen Falk, known to me, or

satisfactorily proven, to be the same, and acknowledged that he/she/they executed the same for

the purposes contained therein.

Suzanne Gayle Soto

Notary Public/Justice of the Peace

My commission expires: _____

Suzanne Gayle Soto
Notary Public State of New York
No. 01SO4973049
Qualified in Westchester County
Commission Expires 10/09/2022

ACCEPTED this _____ day of _____, 20____ by the Town of STRATHAM.

TOWN OF STRATHAM

By: _____
Stratham Town Administrator
(Or other authorized designee)

Print Name: _____



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

Part 4: Chapter 79-E Community Revitalization Tax Relief Incentive District Map

RSA 79-E Community Revitalization Tax Relief Incentive Map March 2014



Town of Stratham, New Hampshire

Legend

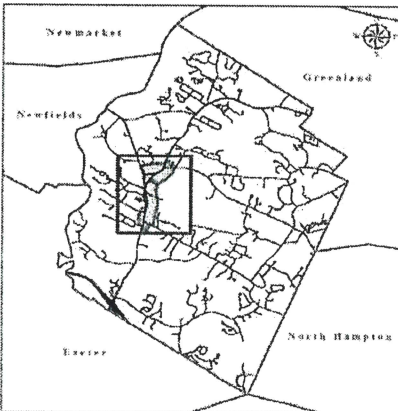
Zoning Districts

- Residential / Agricultural District (R/A)
- Town Center District (TC)
- Professional / Residential (PRE)
- Gateway Commercial Business District (GCBD)

Tax Relief Incentive District

- Tax Relief Incentive District
- Parcel
- Roads
- Municipal Boundary
- Ponds
- Rivers and Streams

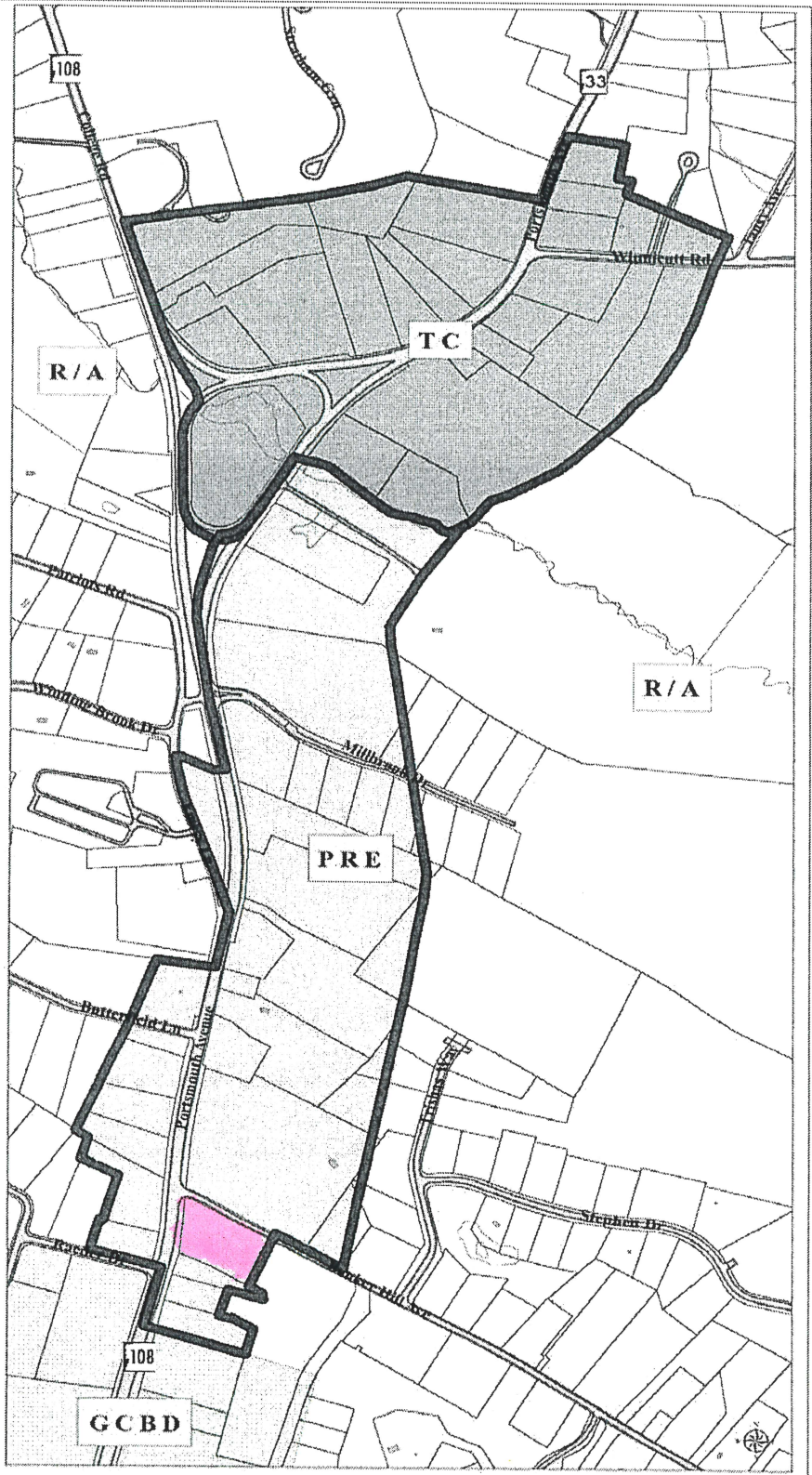
Area of Detail



0 112.5225 450 675 900 1,125 1,350 Feet
1 inch = 225 feet

Notes:

1. RSA 79-E Tax Relief Incentive Map created by the Planning Department using data available from the Town of Stratham, Sewall Inc., GRANIT, and Rockingham Planning Commission. Valid as of March 2014.
2. The Planning Department maintains a continuing program to identify and correct errors. The Department makes no claims as to the validity or reliability or to any implied uses of this representation.





Part 5: Chapter 79-E Community Revitalization Tax Relief Incentive

Section 79-E:1

79-E:1 Declaration of Public Benefit. –

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

II-b. It is further declared to be a public benefit to encourage the rehabilitation of historic structures in a municipality by increasing energy efficiency in the preservation and reuse of existing building stock.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

Source. 2006, 167:1. 2009, 200:3, 4, eff. July 15, 2009. 2013, 78:1, eff. April 1, 2013.

Section 79-E:2

79-E:2 Definitions. – In this chapter:

I. "Historic structure" means a building that is listed on or determined eligible for listing on the National Register of Historic Places or the state register of historic places.

II. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. Qualifying structure shall also mean historic structures in a municipality whose preservation and reuse would conserve the embodied energy in existing building stock. Cities or towns may further limit "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within such districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals. Cities or towns may further modify "qualifying structure" to include buildings that have been destroyed by fire or act of nature, including where such destruction occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town.

III. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

IV. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

NH RSA Chapter 79-E (continued)

15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. In addition, in the case of historic structures, substantial rehabilitation means devoting a portion of the total cost, in the amount of at least 10 percent of the pre-rehabilitation assessed valuation or at least \$5,000, whichever is less, to energy efficiency in accordance with the U.S. Secretary of the Interior's Standards for Rehabilitation. Cities or towns may further limit "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs a percentage greater than 15 percent of pre-rehabilitation assessed valuation or an amount greater than \$75,000 based on local economic conditions, community character, and local planning and development goals.

V. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

VI. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

(c) For a qualifying structure which is a building destroyed by fire or act of nature, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on such qualifying structure shall not exceed the tax on the assessed value of the structure that would have existed had the structure not been destroyed.

VII. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

Source. 2006, 167:1. 2009, 200:5-7. 2010, 329:1, 2. 2011, 237:1, 2, eff. July 5, 2011. 2013, 78:2, eff. April 1, 2013.

Section 79-E:3

79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program –

I. Any city or town may adopt or modify the provisions of this chapter by voting whether to accept for consideration or modify requirements for requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of any town or city that has adopted this program may consider



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

NH RSA Chapter 79-E (continued)

rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.

Source. 2006, 167:1. 2010, 329:3, eff. July 20, 2010.

Section 79-E:4

79-E:4 Community Revitalization Tax Relief Incentive. –

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

- (1) The governing body finds a public benefit under RSA 79-E:7; and
- (2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and
- (3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and
- (4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

NH RSA Chapter 79-E (continued)

resources conduct a technical evaluation in order to satisfy the governing body that historical resources will not be adversely affected.

(b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

(a) The development program or financing plans for such tax increment finance districts; or

(b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or

(c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

Source. 2006, 167:1. 2009, 200:8-11, eff. July 15, 2009.

Section 79-E:5

79-E:5 Duration of Tax Relief Period. –

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate



NH RSA Chapter 79-E (continued)

duration of the tax assessment relief period.

Source. 2006, 167:1. 2009, 200:12. 2010, 329:4, eff. July 20, 2010.

Section 79-E:6

79-E:6 Resumption of Full Tax Liability. – Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

Source. 2006, 167:1, eff. April 1, 2006.

Section 79-E:7

79-E:7 Public Benefit. – In order to qualify for tax relief under this chapter, the proposed substantial rehabilitation must provide at least one of the public benefits, and the proposed replacement must provide one or more of the public benefits to a greater degree than would a substantial rehabilitation of the same qualifying structure, as follows:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located;
 - II-a. It promotes the preservation and reuse of existing building stock throughout a municipality by the rehabilitation of historic structures, thereby conserving the embodied energy in accordance with energy efficiency guidelines established by the U.S. Secretary of the Interior's Standards for Rehabilitation.
- III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
- IV. It increases residential housing in urban or town centers.

Source. 2006, 167:1. 2009, 200:13, eff. July 15, 2009. 2013, 78:3, eff. April 1, 2013.

Section 79-E:7-a

79-E:7-a Public Benefit Determinations. – Cities or towns may adopt according to the procedure in RSA 79-E:3 provisions that further define the public benefits enumerated in RSA 79-E:7 to assist the governing body in evaluating applications made under this chapter based on local economic conditions, community character, and local planning and development goals.

Source. 2010, 329:5, eff. July 20, 2010.

Section 79-E:8

79-E:8 Covenant to Protect Public Benefit. –

- I. Tax relief for the substantial rehabilitation or replacement of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.
- II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.
- III. The covenant shall include provisions requiring the property owner to obtain casualty



NH RSA Chapter 79-E (continued)

insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition of damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:9, I.

IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.

V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review, and/or execution of the covenant. The applicant also shall be responsible for the cost of recording the covenant.

Source. 2006, 167:1. 2009, 200:14, eff. July 15, 2009.

Section 79-E:9

79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty. –

I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.

II. Any tax payment required under paragraph I shall be payable according to the following procedure:

(a) The commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment according to RSA 75:1, and the amount payable.

(b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.

(c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of payment.

(d) Payment shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted.

Source. 2006, 167:1. 2009, 200:15, eff. July 15, 2009.

Section 79-E:10

79-E:10 Lien for Unpaid Taxes. – The real estate of every person shall be held for the taxes levied pursuant to RSA 79-E:9.

Source. 2006, 167:1, eff. April 1, 2006.



Community Revitalization Tax Relief Incentive Program (NH RSA 79-E)

NH RSA Chapter 79-E (continued)

Section 79-E:11

79-E:11 Enforcement. – All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80.

Source. 2006, 167:1. 2007, 42:3, eff. July 20, 2007.

Section 79-E:12

79-E:12 Rulemaking. – The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the payment and collection procedures under RSA 79-E:9.

Source. 2006, 167:1, eff. April 1, 2006.

Section 79-E:13

79-E:13 Extent of Tax Relief. –

I. (a) Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or

(b) Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this chapter, provided that for a qualifying structure which is a building destroyed by fire or act of nature, original assessed value shall mean the value as of the date of approval of the application for tax relief of the qualifying structure that would have existed had the structure not been destroyed.

II. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter, provided that in the case of a qualifying structure which is a building destroyed by fire or act of nature, and which occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town, the tax relief may apply to such qualifying structure for which replacement has begun, but which has not been completed, on the date the application for relief under this chapter is approved.

Source. 2006, 167:1. 2010, 329:6. 2011, 237:3, eff. July 5, 2011.

Section 79-E:14

79-E:14 Other Programs. – The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

Source. 2006, 167:1, eff. April 1, 2006.

PART 2 – RESPONSIBILITIES OF ELECTION OFFICIALS BY OFFICE

VI. ELECTION OFFICIALS

WHO IS AN ELECTION OFFICER?

“Election Officer” shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar. RSA 652:14.

The term “election official” is not defined by statute. The terms “election officer” and “election official” are used in the election law in manner that suggests they are interchangeable.

MODERATOR

Elected for a two year term at the annual meeting, in towns every even numbered year, in cities every other regular city election. RSA 40:1.

TOWN CLERK

Elected for a one year or three year term, depending upon which option the town voted to enact. RSA 41:45-a; RSA 41:2-a; RSA 41:16-a; RSA 41:26-b.

SELECTMAN

Elected for a three year term at the annual meeting. RSA 41:8 through 8-e.

SUPERVISOR OF THE CHECKLIST

Elected for a six year term, one elected every even numbered year. RSA 41:46-a.

INSPECTORS OF ELECTION

There shall be two inspectors from each of the two parties that received the largest number of votes in the last previous general election. RSA 658:2. Each inspector of election shall be sworn and hold office for two years from November

1 in the year he is appointed or until a successor is appointed and qualified. RSA 658:4. Inspectors of Elections are not “election officials.”

Moderators should request appointment by the two parties, or if not appointed by the parties, appointment by the selectmen of as many additional Inspectors of Election as are needed to effectively staff each checklist check-in station, a greeter position, and fulfill other anticipated duties based on the anticipated turnout for the election.

Moderators report it is beneficial to have two or more shifts of Inspectors of Elections and sufficient numbers to allow regular breaks during busy elections. While two or more shifts requires recruiting more ballot clerks, moderators report recruitment is actually easier as people are only signing up for a shift with limited hours.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to have sufficient staff to effectively conduct the election. RSA 658:7.

CITY ELECTION OFFICIALS

(Some election laws are different in cities as compared to towns.)

City government operates under the home rule powers recognized by the New Hampshire Constitution, Part 1, Article 39, of the New Hampshire Constitution. To that end, the general court has provided cities the authority to adopt charters. Within statutory limitations

intended to ensure uniform procedures and practices, charters allow cities to adopt a form of government that best addresses local needs. RSA 49-B:1. Therefore, each city in the state has variations in its charter. City election officials, their terms of office, duties and titles may differ from those in towns.

Typically, city election officials include, besides the city clerk, in each ward: ward moderator, ward clerk, three ward selectmen, checklist board of supervisors or, in some cities, registrars and deputy registrars.

HOW CITY ELECTION OFFICIALS ARE CHOSEN

- **City Clerk:** RSA 48:2 provides that a city council, being met in convention upon the day appointed by law or ordinance, shall by joint ballot elect a city clerk.
- **Ward Clerks, Ward Selectmen, Ward Moderator:** Shall be elected in each of the wards, and shall have the powers, perform the duties, and be subject to the liabilities of those offices in towns, so far as it relates to the warning of meetings, conducting elections, counting and declaring votes, and all other matters relating to elections. RSA 44:12.
- **Board of Supervisors of the Checklist, Typically Called Registrars in Cities:** Shall be elected in each of the wards, and shall have the powers to prepare, post and revise the checklist for city elections.
- **Inspectors of Election:** The same appointment process that is followed in towns.

The city clerk is the chief election officer for the city. The clerk is required to establish uniform procedures to be used at all polling places in the city. The other city election officials are required to follow the procedures established by the city clerk. RSA 652:14; RSA 659:9-a.

SWEARING IN OF ELECTION OFFICIALS

The moderator, town clerk, one of the selectmen or a justice of the peace may administer the oath of office. RSA 42:2.

Every town officer shall make and subscribe the oath or declaration as prescribed by the New Hampshire Constitution, Part 2, Article 84, and any person who violates said oath after taking the same shall be forthwith dismissed from the office involved. RSA 42:1. See page 197. Inspectors of Elections (ballot clerks) and any assistant or pro tempore election officials appointed to assist at elections must also take the oath of office before engaging in the duties of their position. RSA 658:4; RSA 658:7; RSA 658:23.

Except as otherwise provided, the term of any town officer elected shall begin upon his or her election and qualification for office and shall end upon the election and qualification of his or her successor. RSA 669:10, I; RSA 41:3. No person shall assume a town office until after the time period for requesting a recount is over, except where a person is elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office. Such persons may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. In all other cases, if a recount is

requested, no person shall assume that office until the recount is completed. RSA 669:10, II.

A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount.

When a different person is declared elected following the recount, if no appeal is taken that person may take the oath of office and assume office on the sixth day following the date of the recount.

If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal. The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office. RSA 669:34.

Taking the oath of office constitutes assuming office. State officers assume office on the date set by the New Hampshire Constitution and County officers assume office on the first Wednesday after the first Tuesday in January of the year following the state general election at which they were elected. RSA 653:10.

All town officers must take the written oath of office as prescribed by part 2, article 84 of the New Hampshire Constitution before qualifying for office. See page 196. A blank copy of the oath appears in *ElectioNet/Help/Instructions*. RSA 669:9.

MANNER OF DISMISSAL – BREACH OF CONFIDENTIALITY

A town officer who violates his or her oath of office can be dismissed by the Superior Court. A party seeking dismissal of a town officer must file a petition with the Superior Court. In addition to other violations of the oath of office, a town officer may be dismissed for the improper disclosure to the public of certain confidential information which that officer learned by virtue of his or her public office. RSA 42:1-a; RSA 91-A:3; RSA 91-A:5.

VACANCIES IN ELECTION OFFICES

A vacancy in public office occurs when a person:

- Dies, resigns or ceases to be domiciled in the state or district from which he was elected. RSA 652:12, I.
- Is determined by the court to be insane or mentally incompetent. RSA 652:12, II.
- Is convicted of a crime which disqualified him or her from holding office. RSA 652:12, III. A person convicted of a felony, from the time of his or her sentence until his or her final discharge, may not seek the nomination of a political party or become a candidate for or hold public office. A public office held at the time of sentencing is forfeited as of the date of the sentence. RSA 607-A:2.
- Fails or refuses to take the oath of office within the period prescribed in RSA 42:6 or to give or renew an official bond if required by law. RSA 652:12, IV. This would

include a situation where a person is elected to office, but subsequently concedes that he or she is not qualified to hold office and for that reason fails or refuses to take the oath of office.

- Has his or her election voided by court or Ballot Law Commission decision. RSA 652:12, V.
- Is a State Representative or State Senator and a member of the military reserve or National Guard, and is unable to perform his or her legislative duties because of military service, as determined by the House for House members and the Senate for Senators, for more than 180 consecutive days and the selectmen from any town the Representative or Senator represents requests that the Governor and Council declare the office vacant. RSA 652:12, VI.
- The Superior Court has dismissed an officer pursuant to RSA 42:1-a.

See also RSA 654:1.

TEMPORARY ABSENCES

A vacancy should not be confused with a temporary absence. A temporary absence means that a certain official, still qualified to hold a position, is sick, out-of-town, or otherwise unable to perform his or her duties for a certain period of time.

Temporary absences among election officials must be filled under the provisions of RSA 658:19 through RSA 658:23. Vacancies in town offices must be filled as provided in RSA 669:61 through RSA 669:75. People serving in the absence of an official serve only until the officeholder returns to service. People appointed to fill vacancies serve until the

next annual town election when a person is elected to fill the unexpired term, unless otherwise stated in law. RSA 669:61; RSA 658:24; RSA 659:58. For certain offices, such as Trustee of the Trust Fund or Highway agent, the appointee serves the remainder of the unexpired term. RSA 669:73; RSA 669:74.

TOWN OFFICE VACANCIES

Whenever a vacancy occurs in any elected town office or whenever a town neglects or refuses to fill an elective town office, said vacancy shall be filled by the action of that body or person authorized by law to appoint or elect such officer for a term ending upon the election and qualification of his or her successor, unless otherwise provided. At the next annual town election, unless otherwise provided by law, the voters of the town shall then elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. RSA 669:6, I-III.

A town may choose to adopt or rescind an alternative procedure for filling vacancies. Under the alternative procedure, if the authorized person or body does not make an appointment to fill the vacancy pursuant to RSA 669:61, I within 45 days after at least one legally-qualified person has applied in writing for such appointment, then upon the filing of a petition with the selectmen signed by the number of voters required under RSA 39:3 for the warning of a special town meeting and presented not less than 90 days before the next annual town meeting, the selectmen must call a special election to fill the vacancy. The special election is subject to the provisions of RSA 39:3 and other applicable provisions governing town elections. The person elected at the special election serves for a term ending upon the election and qualification of his or her successor. RSA 669:61, IV.

WHO FILLS THE VACANCY FOR TOWN MODERATOR?

Vacancies shall be filled by appointment made by the supervisors of the checklist, or by the town selectmen where no board of supervisors exists. RSA 669:62.

WHO FILLS THE VACANCY FOR SELECTMEN?

Vacancies shall be filled by appointment made by the remaining selectmen. Whenever the selectmen fail to make such appointment, the Superior Court or any justice thereof, on petition of any citizen of the town may appoint a suitable person. If the town has adopted the provisions of RSA 669:61, IV, and a petition is submitted thereunder before a petition for appointment by the Superior Court is submitted, the alternative appointment procedures established in RSA 669:61, IV will apply. RSA 669:63.

WHO FILLS THE VACANCY FOR SUPERVISOR OF THE CHECKLIST?

Vacancies shall be filled within 45 days by the remaining supervisors. If there is only one member or the entire board is vacant, or the remaining supervisors fail to fill the vacancy within 45 days, the moderator shall make the appointments. If the supervisors are elected by the partisan ballot system, the appointee shall be of the same political party as the supervisor whose place he or she is filling. RSA 669:64. Currently, in New Hampshire there are no towns that use the partisan ballot system; therefore, appointees may be from any party. RSA 669:64. Vacancies in the office of a city registrar would be filled in the same manner unless the city charter makes some other provision for filling the vacancy.

WHO FILLS THE VACANCY FOR TOWN CLERK?

Vacancies shall be filled by appointment made by the selectmen except in towns where pursuant to RSA 41:18, the clerk,

with approval of the selectmen, has previously appointed a deputy town clerk, in which case the deputy shall serve as town clerk until the next annual meeting. RSA 669:65.

WHO FILLS THE VACANCY FOR A COMBINED TOWN CLERK - TAX COLLECTOR?

If a vacancy occurs, the deputy provided for in RSA 41:45-c shall discharge the duties of the town clerk - tax collector until the selectmen fill the position within 30 days. RSA 669:66.

WHO FILLS THE VACANCY FOR INSPECTOR OF ELECTIONS?

Political committees or town and ward selectmen may designate a list of alternates who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the appointees fails to accept the appointment or is otherwise unavailable to perform his or her duties. RSA 658:5. If the chairmen of the state political committees of the two parties have not made appointments and proper notification of those appointments by July 15, then the town or ward selectmen, in consultation with the moderator, shall appoint Inspectors of Elections in equal numbers from the two political parties. RSA 658:2. In case any appointment is not made as provided in RSA 658:2 or RSA 658:5 or vacancies are not filled as provided in RSA 658:22, then on application of 6 qualified voters of the town or ward, a justice of the municipal or district court shall appoint the inspectors. RSA 658:6.

Cities should consult their city charter when a vacancy occurs. If the charter offers no procedure for filling a vacancy, state law may provide a procedure for filling a vacancy in a corresponding town office. If this fails, the city council may decide.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

ABSENCES ON ELECTION DAY

A temporary absence means that a certain official, still qualified to hold a position, is sick, out-of-town, has recused himself or herself because he or she is running for an office other than that of an election officer or is otherwise unable to perform his or her duties for a certain period of time.

DISQUALIFICATION OF OFFICIALS WHO ARE ON THE BALLOT

Any moderator, clerk, selectmen, inspector of election, or supervisor of the checklist whose name appears on the ballot for an elective position other than an election official is not disqualified from performing election duties so long as they do not handle marked ballots or count votes.

If a moderator, clerk, selectman, inspector of election, or supervisor of the checklist is on the ballot for election official, they can perform their duties, including handling marked ballots. We strongly recommend that officials not count votes in races in which they are on the ballot. This disqualification creates a temporary absence.

A moderator who is running for re-election is not disqualified from serving as moderator at the election where his or her name is on the ballot. If that moderator, however, is running for a different position, for example as State Representative, he or she would be disqualified from the handling of marked ballots and counting of votes. RSA 658:24.

PRO TEM OFFICER

Temporary absences must be filled under the provisions of RSA 658:19 through RSA 658:23, which states: an election officer pro tempore shall have all the powers and duties of the officer he replaces as provided in the election laws and shall take the oath of office in like manner.

TERM OF OFFICE

The term of office shall expire at the termination of the proceedings at the election for which he or she was appointed. RSA 658:23. For example, a moderator pro tem would serve until the results were announced, the ballots sealed up on election night, and election return paperwork described in RSA 659:73 has been filed with the Secretary of State and the clerk - unless there is a recount, then until the recount is completed.

MODERATOR PRO TEM

If the moderator is absent from an election or unable to perform his or her duties, a moderator pro tempore shall be appointed by the moderator. RSA 658:19. The law has a separate provision for annual town meetings. If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the selectmen of a town where there is no board of supervisors. RSA 40:3.

CLERK PRO TEM

If the town or ward clerk is absent or unable to perform his or her duties and there is no deputy clerk as provided in RSA 41:18, a town or ward clerk pro tempore shall be appointed by the town clerk. RSA 658:20.

SUPERVISOR PRO TEM

If more than one member of the board of supervisors is absent or unable to perform his or her duties, a supervisor pro tempore shall be appointed by the moderator. RSA 658:21.

INSPECTOR OF ELECTIONS PRO TEM

If any of the appointed inspectors of election shall be absent or unable to perform his or her duties, the selectmen shall appoint some person qualified as provided in RSA 658:3, using the list of alternate appointees provided under RSA 658:4, unless no person on the list is available. RSA 658:22. If the selectmen have failed to provide adequate inspectors, the moderator may also use his or her general authority to appoint election officials to appoint inspectors pro tem. RSA 658:7.

SELECTMEN PRO TEM

“If a selectman is absent from or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen pro tem, or if a selectman pro tem is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen pro tem to perform their duties.” RSA 658:21-a.

INCOMPATIBILITY OF TOWN OFFICES

There are several offices in town government for which a person may not file for or serve while holding another office. RSA 669:7 deals with these offices as follows:

- No person shall at the same time file for or hold any two of the following offices: selectmen,

treasurer, moderator, trustee of trust funds, collector of taxes, auditor and highway agent.

- No person shall at the same time file for or hold any two of the following offices: town treasurer, moderator, trustee of trust funds, selectman, and head of any police department on full time duty.
- No person shall at the same time file for or hold the office of town treasurer and town clerk.
- No full time town employee shall at the same time hold the office of selectman.
- No official handling funds of the town shall at the same time hold the office of auditor.
- No selectman, moderator, town clerk, deputy town clerk or inspector of election shall file for or at the same time serve as supervisor of the checklist.
- No selectmen, town manager, school board member (except a cooperative school board member), full-time town, village district, or school district employee (except a cooperative school district employee,) or their associated agency employee or village district commissioner shall file for or serve at the same time serve as a budget committee member at large under RSA 32.

The provisions above refer to the actual holding of office and are not to be construed to prevent the transfer between offices of information obtained in the regular conduct of business nor to prevent the personnel in any office from

Responsibilities of Election Officials

furnishing clerical assistance to any other office.

A town manager may be elected or appointed to any municipal office that would be subject to his or her supervision; but may not hold any other public office. For example, if the town road agent is supervised by the town manager, but the police chief is supervised by an elected police commission, the town manager could be elected or appointed as road agent, but not as police chief. RSA 669:8.

In the case of towns, any two appointed or elected members of the planning board may also serve together on any other municipal board or commission, except that no more than one member of the planning board shall serve on the conservation commission, the local governing body, or a local land use board as defined in RSA 672:7 and RSA 673:7, I.

VII. DUTIES OF INSPECTORS OF ELECTION (BALLOT CLERKS)

MODERATOR ASSIGNS DUTIES

The moderator typically assigns Inspectors of Election to specific duties, including serving as ballot clerks. The title “ballot clerk” is often used to describe the position of Inspector of Elections, and for most assignments is a more accurate description.

APPOINTMENT OF INSPECTORS

Each state political committee of the two political parties which cast the largest number of votes for governor in the state at the last previous general election appoints inspectors of election. RSA 658:2. Inspectors are appointed between May 15 and July 15 of each general election year. If any party appointments are not made by July 15, the selectmen shall fill the positions in equal numbers from the two political parties. For school district meetings, conducted separately from the town election, the school board appoints inspectors. RSA 671:28.

The chairmen of the state political committees of the state’s largest two political parties shall notify the appointees and the town clerk, or the ward clerk and city clerk on or before July 15 of each state general election year. RSA 658:2.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

INSPECTORS’ QUALIFICATIONS

Inspectors shall be registered to vote at the polling place where they serve. RSA 658:3.

NUMBER APPOINTED

Two inspectors of election are appointed to act at each polling place. If the number of registered voters at a polling place exceeds 2,000, the political committees may appoint an additional inspector for each 1,500 in excess of 2,000. Each state political committee also may appoint such additional inspectors as the moderator considers necessary for the efficient conduct of the election. RSA 658:2.

ALTERNATES

State political committees or, in their absence, town and ward selectmen, in consultation with the moderator, may designate a list of alternates, who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the principal appointees fails to accept the appointment or is otherwise unable to perform his or her duties. RSA 658:5.

Moderators for polling places that have a high volume of voters and high turnout at certain elections report it is helpful to have two or more shifts of ballot clerks and at least one extra clerk on each shift who can give the other clerks regular breaks. Most polling places have the highest volume of voters when the polling place opens in the morning and again during the drive home period in the afternoon. Consider having extra ballot clerks and check-in stations for the busy periods at your polling place.

ELECTION DAY DUTIES

Two of the inspectors, one from each of the 2 political parties, shall be designated by the moderator at the opening of the polls to act as ballot clerks. They shall have charge of the ballots and shall furnish them to the voters. RSA 658:25.

Duties of Inspectors of Election (Ballot Clerks)

Polling places that break the checklist into sections organized alphabetically by the first letter of voter's last names will need two ballot clerks for each check-in section.

Ballot clerks are inspectors of election who process voters in the check-in line. See page 244 for a complete description of Ballot Clerk Procedures to accommodate the Photo ID law.

The other inspectors shall be assigned such duties in the polling place as the moderator may determine, including, but not limited to, relieving the ballot clerks, greeting arriving voters and directing formation of lines at the poll entrance, and providing assistance to those voters who declare under oath that they need assistance. RSA 659:20; RSA 658:25.

When school districts conduct their own election, most school district elections are combined with town elections, school district inspectors shall assist the school district moderator in counting votes for school district officers and questions. RSA 671:28.

Each inspector shall be sworn to the faithful performance of his or her duties and shall hold office for two years from August 1 in the year in which he or she is appointed or until a successor is appointed and qualified. RSA 658:4. See oath of office at Page 196. Moderators may also appoint Inspectors of Elections pro tem as assistant election officials for a particular election, in which case the pro tem official's term of office would end upon the election being finalized.

IMPORTANCE OF PROPERLY MARKING THE CHECKLIST

The marked checklist serves important legal purposes:

- Identifying who has voted, so that person is not permitted to vote a second time;
- Identifying who voted to allow enforcement of the laws prohibiting voting in two towns/ward or two states in the same election;
- Allowing a count of how many voters participated in the election for comparison with the total number of ballots used from the starting inventory to verify the integrity of the election results;
- The count of voters marked as voting also is compared to the total votes cast, including undervotes and overvotes (listed as "blanks" on the ballot counting device tape) to ensure the tally of votes cast for a given office is consistent with the number of people who voted.

It is therefore very important that the checklist be marked in a consistent and uniform manner.

For each voter a checkmark should be entered next to the voter's name at the start of the voter intake immediately upon finding the voter's name on the checklist.

After the voter's address and identity has been verified, at the moment when the voter will be issued a ballot, a single thin line should be drawn through the voter's last name using a ruler or other straight edge.

Be careful to mark the correct name on the checklist.

CHECKLIST USED AT AN ELECTION

The checklist used at the election must be unmarked when the polls open. The

Duties of Inspectors of Election (Ballot Clerks)

practice of pre marking absentee voters on the checklist in advance of the election is improper and is a suspected source of inaccurate checklist markings regarding absentee voters.

Instruct ballot clerks to make only those marks on the checklist that are required by law.

- Checkmark beside the name immediately upon finding the name on the checklist as the check in starts – Ballot Clerk Procedure – page 244
- RSA 659:13, requires that ballot clerks “state the address listed on the checklist for the voter, and ask if the address is correct” – before providing a ballot to the voter on election day. This is an opportunity to update address information in voter registration files. Address Changes must be marked in red ink. – RSA 659:13, I (Supervisors may establish a local policy asking voters, after they vote, to complete a new Voter Registration Form B to obtain a good record of the new address);
- When an out-of-state driver license or non-driver ID is used as photo ID, enter the two-letter abbreviation for the state that issued the ID. RSA 659:13, I(b).
- If the voter did not have photo ID and is presenting a completed challenged voter affidavit (“CVA”) with a photograph or religious exemption from a photograph affidavit, put a check mark in the CVA box on the checklist. RSA 659:13, I (c)(1).
- After the voter is issued a ballot, a single thin line must be drawn with a ruler or straight edge through the last name of the voter. RSA 659:13, I(b).

- For an absentee voter, when the ballot is presented by the moderator, mark “A.V.” in red ink beside the voter’s name, place a checkmark beside the voter’s name, and draw a single thin line through the voter’s last name using a ruler or straight edge. RSA 659:52.

Other changes to a voter’s record, such as a name change which is first reported at the check-in table, must be processed with the supervisors of the checklist using the voter registration form B, marking the upper right corner to indicate the form is completed for a name change or address update. RSA 654:7.

Best practice for documenting a name change reported at the polling place on election day is as follows:

- Voter checks in at the ballot clerk table and reports a name change. No action is taken at this moment by the ballot clerk and the voter is directed to the supervisors of the checklist;
- Voter is asked to complete a new Voter Registration Form B, marking in the upper right hand corner the form is completed due to a name change.
- Supervisors require the voter to provide proof of identity, to verify the validity of the new name. Any form of proof of identity used by a new voter to register is acceptable. As the person has already proven age, citizenship, and domicile to become registered, the voter is not required to provide proof of those qualifications.
- Supervisors send the voter back to the ballot clerk table to check in and either:

Duties of Inspectors of Election (Ballot Clerks)

- Accompany the voter to explain the name change to the ballot clerk; or
- Provide the voter with the same document provided to new voters to notify the ballot clerk that the person has been registered, but specially mark that document to show the voter's former and current name. See sample form at page 215.
- The ballot clerk should find the voter's former name on the checklist and place a checkmark beside that name. The ballot clerk next needs to verify the voter's identity in the same manner as for other voters, a photo ID with the new name is appropriate proof, but any proof accepted for other voters is acceptable. The ballot clerk will then draw a single thin line through the voter's entire name on the checklist and write in the voter's new name immediately above the printed name. The new name will not be in its proper alphabetical position on the checklist. The name needs to be entered immediately above the

former name to avoid confusion in the count, made after the polls close, of the number of voters marked as voting.

- The new name should **not** be written in where the names of new voters are written in at the end of the pages for the first letter of the voter's new last name.
- When election day registrations are counted, name changes for a previously registered voter should not be counted as a new election day registration. The voter with a name change should be counted with other previously registered voters when tallying how many previously registered voters cast a ballot in the election.

Non-public information, such as voter's dates-of-birth or other data that may be missing from voter records may **not** be written onto the election day checklist. The election day checklist becomes a public document following the election. The supervisors and clerk may adopt local procedures for collecting this information.

VIII. DUTIES OF MODERATORS

MODERATOR TO OVERSEE VOTING

Elections “shall be . . . governed by a moderator, who shall in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote . . . and shall . . . in the presence of the said selectmen, and of the town or city clerk, . . . sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person”
New Hampshire Constitution, Part 2, Article 32.

The moderator is responsible for making certain each election officer understands his or her responsibilities. RSA 659:9. The moderator shall preside at the town meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed, and may prescribe rules of proceeding; but such rules may be altered by the town. RSA 40:4. In cities, the city clerk may establish uniform city wide procedures that must be followed by the ward moderators.

KEEP ELECTION OFFICIAL/POLLING PLACE INFORMATION CURRENT IN ELECTIONET

Provide the clerk with your current contact information to ensure that the Secretary of State and Attorney General can:

- Contact you to address discrepancies and complaints;
- Send you legal updates; and
- Send you meeting and training invitations.

The clerk shall enter, maintain, and keep up to date election official contact and polling place location/hours in *Electionet*. RSA 654:45, VII.

APPOINTMENT OF ADDITIONAL INSPECTORS OF ELECTION

If the moderator requests, the political parties may, between May 15 and July 15 of each even numbered year, appoint an equal number of additional inspectors. After the time for appointment by the parties has expired, the selectmen shall appoint additional inspectors of election to satisfy the moderator’s request. RSA 658:2.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

MODERATOR PRO TEM

If the moderator is absent from any election or unable to perform his or her duties, he shall appoint a moderator pro tempore. RSA 658:19.

HB 87 (2017) amended the statute for annual town meetings. If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the board of selectmen, if there are no supervisors. RSA 40:3.

SELECTMAN PRO TEM

“If a selectman is absent or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her

duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen pro tem, or if a selectman pro tem is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen pro tem to perform their duties.” RSA 658:21-a:

SUPERVISOR PRO TEM

If more than one member of the supervisors of the Checklist is absent from any election or unable to perform his or her duties, the moderator shall appoint a supervisor pro tempore. RSA 658:21. At a town election a supervisor vacancy shall be filled by the remaining supervisors, unless there is only one, then by the moderator. RSA 669:64.

OTHER ELECTION OFFICIALS

The moderator may appoint an assistant moderator and such other election officials as he or she deems necessary. The town clerk, upon request of the moderator, may appoint one or more assistant town clerks. RSA 658:7.

CENTRAL POLLING PLACE

The moderator elected by the town shall preside over the central polling place. He or she may appoint an assistant moderator, who must be domiciled in the voting district, to run the additional polling place. RSA 658:11 through RSA 658:14.

ELECTION DAY

IN CHARGE OF THE POLLS

The moderator is the chief election officer in charge of the polls. It is his or her responsibility to make certain all election officials are available on the day of the election and that each is familiar with his or her duties for the day. New Hampshire Constitution, Part 2, Article 32; RSA 659:9.

ARRANGEMENT OF THE POLLING PLACE

New Hampshire election laws do not specify any specific arrangement of the polling place. The Secretary of State provides an example of a polling place layout that can be used for hand-count and ballot counting device towns. See diagram on page 242. Variations must ensure that there is some public area outside the rail where the public can watch the election. The Right-to-Know law provisions applicable to public meetings apply to an election. RSA 91-A:2. See *Lambert v. Belknap Cty. Convention*, 157 N.H. 375, 379 (2008), noting the exemption for secret ballots at elections in the Right-to-Know law which has a general rule that votes must be taken in open session. The exception would be unnecessary if the law did not otherwise apply to elections.

It is also essential that there is a clear and well-marked path from the accessible entrance to the check-in table.

POLL OPENING CHECKLIST

Prior to the opening of the polls, the moderator should ensure that:

- 3 copies of the Instructions for Voters have been posted outside the guardrail. RSA 658:28.
- 1 copy of the Instructions for Voters has been posted inside every booth. RSA 658:28.
- Sample ballots have been posted outside the guardrail (8 for the state general election and 8 of each party for the primary, and at least several for local elections). RSA 658:26. State law requires a minimum of 2 sample ballots be posted, however, the law also requires the Secretary of State to

Duties of Moderators

provide 10 sample ballots, two for posting in advance of the election, therefore it is recommended that the remaining 8 be posted.

- At least one sample ballot for the general election and one sample ballot for each party at a primary election are posted no higher than 48" for those voters in wheelchairs. RSA 658:26.
- A notice indicating the time for processing absentee ballots is posted.
- A sharp pencil or pen has been placed in each voting booth.
- Purity of Elections statutes are posted outside the voting area. RSA 658:29.
- Proof of Voter Identity Instructions are posted outside the guardrail. RSA 658:29-a.
- Two duplicate checklists to be used at the election are ready and available. The supervisors of the checklist have certified the checklist as accurate and complete, as of the start of the election, by signing the supervisor's certification section printed on the last page of a checklist printed from ElectionNet. If the town/ward uses ballot counting devices, only 1 checklist is required. The checklist to be used at the election must be unmarked. The practice of pre marking absentee voters is improper and is a suspected source of inaccurate checklist markings.
- Ballot clerks should be instructed to make only those marks on the

checklist that are required by law. See Duties of Inspectors of Election at page 89. Non-public information, such as voter's dates-of-birth or other data that may be missing from voter records may not be written onto the election day checklist. The election day checklist becomes a public document following the election, therefore may not have dates of birth or other non-public data written on them.

- Certify that all electronic ballot counting devices and memory cards have passed testing requirements and deposit evidence of testing in the front pocket of the canvas bag for the device. Verify that all device seals are intact and that appropriate activity and access logs are recorded, signed and stored in the front pocket of the canvas bag. RSA 656:42. See Electronic Ballot Counting Device Standard Operating Procedures for Testing & Security Seals on page 229. Do not put a ballot counting device into use that has not been properly tested or which is not properly sealed. The moderator must report any broken seals that are not documented in the device activity log to the attorney general, the Secretary of State, the clerk, and the selectmen. RSA 656:42 VIII (d)(5). The ballots must be hand counted or the town/ward can arrange for the vendor to provide a replacement device which must be properly tested and sealed before being used.
- Count all the ballots delivered to him or her from the clerk, to establish the number of official

Duties of Moderators

- ballots. This number must be reported on the moderator's certificate, will aid the moderator in anticipating the need for the clerk to prepare extra ballots if there is a heavy turnout, and is available as a cross reference when checking the accuracy of the ballot counting, and completing the Moderators Worksheet. (See page 255) This pre-election count establishing the number of ballots in the inventory may be done prior to election day, provided the clerk posts a notice and the public has an opportunity to observe. RSA 658:31.
- Fill out the two copies of the moderator's certificate if the election is a state election. One copy is for the moderator's records and one will be returned to the Secretary of State with the Return of Votes.
 - Position all officials:
 - Trained greeters are positioned to meet voters as they enter the polling place and to ask them to go to (a) the supervisors of the checklist if they are unregistered (b) the "No Photo ID" table if they have no approved photo ID, or (c) the "Voter Check-in" line if they are registered and have a photo ID or a completed Challenged Voter Affidavit.
 - A "No Photo ID table" should be equipped with a camera, film, copy of the checklist, ballot clerk instructions, a copy of RSA 659:13 (the photo ID law), and copies of Challenged Voter Affidavits.
 - Ballot clerks sit at the check-in table.
 - In hand count towns, the town or ward clerk, or a deputy clerk/assistant clerk is positioned at the checkout table by the ballot box.
 - In hand count towns, the moderator or an assistant moderator stands where the ballot box is placed and inserts the ballot handed to him or her by the voter. In towns where ballot counting devices are used, the voter may insert his or her cast ballot into the device without the assistance of the moderator. The moderator or a designee should still closely monitor the process to provide assistance and ensure that only the proper number of ballots are inserted by any one voter.
 - Position any challengers appointed by either a party committee or the Attorney General, outside the rail, but in a position where he or she can hear and see each voter as the voter checks in.
 - Position the selectmen, supervisors and any other assistants he deems necessary within the polling place.
 - Open the polls punctually at the appointed hour.
 - Inspect the ballot box, prior to the first ballot being issued to a voter, and show any members of the public present that it is empty. If a ballot counting device is used, the moderator should display the

zero tape produced by the device when it is set up and turned on for the election. This tape shows that the starting count for each candidate and question is zero.

The zero tape must be preserved and kept with the results tape following the election.

- Seal the ballot box.
- Publicly announce when the processing of absentee ballots shall begin. This customarily begins at 1 PM. However, if 24-hours notice is provided in two public places, the moderator may announce the beginning of processing absentee ballots no earlier than two hours after the polls open. RSA 659:49.
- The moderator shall designate 2 or more of the inspectors of election, one from each party for each check-n station, to act as ballot clerks for each check-in station. RSA 658:25; RSA 659:23.
- Begin accepting voters.

RSA 658:30 through RSA 658:36.

MANAGING EXIT POLLING

No one can obstruct voters as they enter or exit the polling place, and no one can electioneer within the polling place. See page 185 which addresses electioneering. Otherwise, there are no specific restrictions on exit polling. The same limits should be placed on persons taking exit polls, girl scouts selling cookies, the flower club bake sale, or any non-election activity that is allowed at the building where voting takes place. The best practice is to require anyone involved in any of these activities to set up outside the railed-in area and outside the usual and

customary path into and out of the polling place. Where an adjacent room is available, that is an ideal place for such activities. New Hampshire Constitution, Part 2, Article 32; RSA 659:9; RSA 659:43; RSA 659:44.

BALLOT COUNTING DEVICES

Those communities which utilize electronic ballot counting devices shall not be required to have a check-out checklist. The voter should feed the ballot into the ballot counting device without the moderator directly handling the ballot. RSA 659:23.

The Attorney General's Office reports complaints from voters, particularly in communities where ballots are printed on two sides, that the voter's right to cast a secret ballot is violated when it is necessary to make the marked ballot visible while carrying it from the voting booth to the ballot counting device and while inserting the ballot into the device.

It is recommended that communities using electronic ballot counting devices provide each voter with a privacy folder in which to carry the marked ballot. A properly designed privacy folder looks like a typical manila file folder, is wider than the ballot, but slightly shorter. When the ballot is placed in the folder the ballot sticks out of the top just enough to allow the ballot to be fed into the ballot counting device while the voter holds the sides of the privacy folder.

When a privacy folder is used, it is not possible for other voters standing in line, persons standing outside the rail monitoring the voting, election officials, or the moderator to see how the ballot has been marked.

The privacy folder is turned in to the moderator once the ballot is fed into the

ballot counting device. Because the folders can be recycled back to the ballot-issuing table as soon as the voter feeds his or her ballot into the ballot counting device, it is not necessary to have a folder for every ballot printed. Depending on the size of your community, typically one (1) privacy folder for every voting booth will be sufficient.

ONE4ALL ACCESSIBLE VOTING SYSTEM

The Accessible Voting System, named “one4all” is a tablet-based system which is provided by the Secretary of State and which must be available for use by voters. The one4all must be placed in the accessible voting booth provided by the Secretary of State for that purpose. This booth is ideally set up near the moderator’s post by the ballot box/ballot counting device, to permit the moderator to readily receive the ballot by hand in a privacy sleeve. It shall be turned on and tested before the polls open. If the screen is dark during an election, the system has not been turned on as required. HAVA Section 301.

ELECTRONIC POLL BOOKS TRIALS

New Law – RSA 652:27. Cities and towns may conduct a trial of electronic poll books for voter registration and check in at a local election. The trial must follow the requirements issued by the Secretary of State. See further information at: <http://sos.nh.gov/epoll.aspx>

DISQUALIFICATION OF OFFICIALS

If an election official other than the moderator is disqualified, the moderator shall appoint an assistant who shall perform the same duties until the official can properly return. RSA 659:58.

NUMBER OF VOTERS WITHIN GUARDRAIL

The moderator must ensure that the number of voters within the guardrail who have a ballot, excluding those handing the moderator the ballot or feeding it into the ballot counting device, does not exceed the number of voting booths and voting screens. RSA 659:16. When the booth(s) equipped for use by voters with disabilities are open they should be used by the next voter waiting for a booth. These booths equipped for use by voters with disabilities need not be reserved exclusively for use by voters with disabilities. They should be used by all voters.

Voters must not be allowed to leave the area enclosed by the guardrail while in possession of a ballot. RSA 659:15. Anyone who knowingly removes an official ballot to outside the guardrail before the close of the polls is guilty of a misdemeanor. RSA 659:38. No one other than election officials, voters casting their ballot(s), or a voter admitted by approval of the moderator to assist another voter, can be admitted within the guardrail. RSA 659:21. Voters may not allow their marked ballot to be seen by any person with the intention of letting it be known how they are about to vote or how they have voted. RSA 659:35.

ASSISTANCE IN VOTING

Any voter who declares to the moderator under oath that he or she needs assistance marking their ballot, shall, upon the voter's choice and request, after the moderator has informed the voter of the accessible voting options that are available, receive the assistance of one or both of the Inspectors of Election detailed for providing assistance to voters by the moderator or receive assistance from a person of the voter's choice, provided that the person is not the voter's

employer or union official. RSA 659:20; 52 U.S.C 10508. Both the person requesting assistance and the person providing assistance must complete the oaths on page 195.

A PERSON WHOSE PHYSICAL DISABILITY PREVENTS THEM FROM SIGNING THEIR NAME

Some accommodation must be made to allow a person with this type of disability to vote. The best practice would be for the clerk to appoint someone neutral to take the absentee ballot to the voter and to verify that the stamped name is legitimate as the voter's signature. The clerk's appointee should countersign both the application and the affidavit envelope next to the stamped signature or submit a written and notarized statement to accompany the sealed affidavit envelope verifying that the voter himself or herself caused the ballot to be marked and the affidavit to be stamped with the voter's signature. New Hampshire Constitution, Part 1, Article 11.

If a voter who is blind or has a disability received assistance, the person who provided assistance is required to write his or her name and sign a statement on the application or affidavit acknowledging assistance. RSA 657:4, I, II(b). If the voter received assistance, there is no signature comparison. Count the absentee ballot if the other requirements set forth below are satisfied.

Note Senate Bill 527 (2018), effective January 1, 2019, further amends the absentee voting law to more explicitly establish that "The moderator will not compare the voter's signature on the application with the signature on the absentee ballot when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided." RSA 657:4; RSA 657:7.

ASSISTANCE TO PERSONS WHO ARE UNABLE TO COMMUNICATE

Persons with Alzheimer's disease or persons with other disabilities, who are otherwise qualified as voters, should be allowed to vote as long as they are able to vote without assistance. If the voter needs assistance, he or she must be able to communicate his or her choice on how their ballot should be marked. Any means of communication that could be understood by a stranger should be considered acceptable. This might include communication such as blinking their eyelids once for yes and twice for no, or tapping a finger once or twice, as the person assisting them reads off the choices.

A family member or friend should not be allowed to mark the ballot based on how the family member or friend believes the voter would have voted had the voter been able to communicate a choice. A person with a power of attorney is not allowed to vote for such person or any other voter. Both the voter and the person assisting the voter must take the oath required by law. Page 195. The voter must be afforded the opportunity to take the oath orally, in writing, or by any other means of communication. If the voter lacks the capacity to take the oath they are not allowed to vote. RSA 659:20.

UNFORESEEN ACCESSIBILITY EVENTS

RSA 659:20-a, which enables an absentee ballot to be delivered outside the polling place, provides an emergency stop-gap option in the event that an unforeseen accessibility issue arises. This law was adopted to address a situation where a voter attempted to access an ADA-compliant polling place, and was unable to do so. This law cannot be used in lieu of maintaining an accessible polling place, and it should not be used for a voter's convenience in place of voting absentee

when a voter can anticipate difficulty getting into the polling place and request an absentee ballot. See page 159 for the law and discussion.

SERVICE ANIMALS

The Governor's Commission on Disability advises that under the Americans with Disabilities Act ("ADA"), organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where the public is normally allowed. When it is not obvious what service a dog provides, only two questions are appropriate:

1. Is the dog required because of a disability?
2. What work or task has the dog been trained to perform?

For further information visit: <https://www.nh.gov/disability/documents/servicedogbrochure.pdf>

or contact the Governor's Commission on Disability at (603) 271-2773.

SPOILED BALLOTS

A voter who spoils his or her ballot may receive a replacement ballot, not to exceed 3 ballots in all, including the ballot originally issued, after returning the spoiled ballot to the moderator. The moderator must write "canceled" on the ballot and sign it. Any spoiled ballots are held by the moderator and sealed in a separate envelope placed in the container with other ballots when counting is over. RSA 659:22. It is important during the counting process and at any recount to be able to clearly identify marked ballots that were not cast and should not be counted.

MANAGING OBSERVERS

CHALLENGER VS OBSERVER

A "Challenger" is not an "Observer." A challenger, to hold that status, must have a letter of appointment from one of the

political parties, typically signed by the State Chairperson. While a "Challenger" may also do what an "Observer" does, the "Challenger" has a statutory right to be positioned where he or she can hear voters check in. "Observers" and other members of the general public have a right to watch the conduct of the election from outside the rail, they do not have other specific statutory rights. Unless the Moderator gives explicit permission, a member of the public (an observer) may not be within six feet of the ballot clerk's check-in table. RSA 659:13-a. Furthermore, while any voter registered to vote in a town or ward has the right to "challenge" another voter, he or she is not recognized as an appointed "Challenger" in the statutes.

"Challengers" rarely actually challenge voters, more often they are tracking who votes for get-out-the-vote efforts or as trained monitors of the conduct of the election for the political parties.

RIGHT TO OBSERVE

Anyone can come and watch the casting of ballots and the counting of ballots and see for himself or herself whether the election is conducted in accordance with the law.

These individuals can best be understood as "Observers." They have no special status in law and like all members of the public are entitled to silently observe the election as long as they are not disruptive.

At recent elections, political parties and activist groups have sent a variety of individuals to observe the conduct of elections in New Hampshire. Some of these individuals were attorneys or other people who had received some training in the law of elections. These individuals should be accommodated as much as is

practical without allowing them to disrupt the election.

It is recommended that these individuals be addressed by the moderator and told that they cannot interfere with voters or election officials. If the Observer has a question or concern, he or she should bring that concern to the moderator, by silently or quietly signaling to the moderator, who should as soon as is convenient meet with the Observer outside the rail.

Observers may not be positioned within 5 feet of the voter registration table where the exchange of non-public information between the applicant for registration and the election official receiving the information may be heard or seen. RSA 654:7-c.

No person unauthorized by law may stand or sit within 6 feet of the ballot clerk for purposes of observing the check-in of voters without the express permission of the moderator. RSA 659:13-a.

The Attorney General's Office is available on election day to address concerns that these Observers may have with election procedures. If a moderator is unable to easily resolve concerns raised by an Observer, or if an Observer insists that the law is not being followed, consider contacting the Attorney General's Office. The following toll free line is staffed by attorneys during each State election day: 1-866-868-3703. These attorneys are prepared to review the law with the moderator or any observer and to resolve any concerns that the election law is not being complied with.

LINE MANAGEMENT

A registered voter should generally not be required to wait more than 15 minutes to reach the ballot clerk's check-in table. An

applicant for registration as a voter should generally not be required to wait more than 30 minutes to reach the voter registration table. Persistent lines are usually only an issue at the small number of polling places in New Hampshire that have a high volume of voters and then primarily only at high turnout elections.

Research reports from across the United States and anecdotal reports from New Hampshire indicate that the longest lines often occur at the moment when the polling place opens, as voters queue up to vote at the start of the day. At high turnout elections at high-volume polling places, research suggests that failing to effectively process lines at any point in time will increase the likelihood of lines later during the day. When a long line has formed, do not assume it will resolve itself.

CHECK-IN STATIONS

For high-volume polling places, it is important to break the checklist into sections, so that more than one voter can check in simultaneously. The first letter of the last name of voters in New Hampshire is not uniformly distributed to all letters of the alphabet. A recent analysis by the Secretary of State of all active voters in *ElectioNet* shows that almost 10% of New Hampshire Voters' last names start with the letter "M," while less than 2% start with the letter "N." Each check-in station should have a proportionate number of voters, not an equal number of letters of the alphabet. See the chart at page 243 for suggestions on splitting up the checklist.

FLEXIBLE DISTRIBUTION BY ALPHABET

A best practice is to have the checklist used at the check-in table printed with a page break at the end of each letter of the alphabet. Voters arrive at the polling place in patterns unrelated to the first

letter of the voter's last name. Moderators or an assistant assigned to monitor the flow through check-in stations should be able to shift one or more letters from one section of the alphabet to the adjacent section, when one section has a sustained line and the adjacent section does not. For example, if the "A-B-C-D-E" check-in position seems to constantly have a line and the "F-G-H-I" section does not, move "E" or "D-E" from the first station to the second. It may be necessary to shift the sections of the check-in checklist back later in the day. Moderators report that this practice is beneficial. This process requires letter signs for check-in stations that are easily changeable.

FLEXIBLE NUMBER OF CHECK-IN STATIONS

For polling places with a history of excessive wait times or expected high turnout, the moderator should consider adding check-in stations during the times of day when peak turnout occurs. At most high-volume polling places, peak volume is at the opening of the polls and again in the later afternoon/early evening. Consider having additional part-time polling place staff and one or more additional check-in stations just during those busy times of the day.

GREETERS

If your polling place experiences a high-volume of voters and individuals who register to vote on election day, a best practice is for the moderator to assign one or more greeters. A greeter should be positioned where voters arrive at your polling place. The greeter should assist those arriving to find the correct line. The greeter should either carry or have easy access to a checklist to allow the greeter or the voter to examine the checklist to determine whether the person is already registered to vote at that polling place. Also consider having a checklist posted in the area where voters wait in line.

ElectionNet can be used to print a compressed list of registered voters. Posting the compressed list requires less space to post and can be carried more easily.

MEASURE LINES TO MANAGE AND ADDRESS COMPLAINTS

Line management experts encourage the use of relatively easy systematic measurement documenting how many people are waiting in line. For polling places with a history of long lines at high turnout elections, use of a volunteer for some minimal record keeping on the number of people waiting in the lines at regular intervals (e.g., every 30 minutes, or every hour) can provide moderators with valuable information. Average wait time can be calculated from this data. Accumulating this data over a few elections will provide decision makers with data to assess the need for additional staff for the times of day when your polling place has peak turnout.

Having a systematic record of how many people are in line at regular intervals also will help address complaints. Anecdotal evidence is that severe line problems are rare, but do occur most typically every four years during the general election when the office of President of the United States is on the ballot. Even at those elections only a small number of the state's polling places experience excessive lines. A record that demonstrates whether the problem of excessive lines occurs and if so whether the lines are long lasting throughout the day versus just when turnout spikes or some problem arise can alleviate public concern when long lines become major news stories. Furthermore, the record will be evidence the moderator is proactive. That, he or she is alert for and prepared to address excessive wait times.

PLAN FOR CONTINGENCIES

Excessive lines form at polling places when unpredictable problems arise. While ballot counting device problems are rare in New Hampshire, when a ballot gets jammed in the device or it otherwise stops taking ballots excessive lines too often occur. Make maintaining the flow of voters through the polling place a priority. Officials will be able to feed any accumulated ballots through the ballot counting device later in the day.

Have a ballot box on site. As soon as a line of voters waiting to insert their ballot into the device starts to form, promptly put the ballot box into use. While any container suffices, ideally having something that looks like a formal ballot box that voters will recognize as legitimate will diminish concern. Anecdotal reports and voter's phone calls to the Secretary of State's Office highlight the concerns that arise when voters are asked to deposit their ballot anywhere other than in the familiar ballot counting device. If you do not have a formal recognizable ballot box, consider adding a sign to any cardboard box put into use.

If you use a ballot box while your ballot counting device is out of service, be very transparent when you feed accumulated marked ballots into the device. Publicly announce to all present that the marked ballots deposited into a ballot box by voters will now be inserted into the ballot counting device.

KEEP EVERYONE AT THE POLLS INFORMED

Public confidence in the legitimacy of elections benefits when the voting process and all activities at the polling place are understood by those present. When doing something unusual or which may be misunderstood, a public explanation will preempt protests from observers or

public misunderstandings that harm confidence in the process. The prevalent use of social media, taking and distributing video with smart phones, tweeting photos, etc. increases the risk that if someone misunderstands what is occurring, that misinformation will be broadcast widely.

For example, a ballot counting device jams, you have used a ballot box, and now those marked ballots are being inserted into the functioning ballot counting device.

Another common example is when the box under the ballot counting device reaches capacity and ballots must be moved into the ballot storage boxes supplied by the Secretary of State. Monitor the bins under the device and empty the storage bins whenever they are nearly full. If someone seeing marked ballots being moved into a cardboard box suspects ballot box stuffing or other fraud, that misinformation may be quickly spread far and wide. A proactive public announcement, keeping all present in the polling place informed about what is going on will reduce the risk that a false alarm will be sounded.

Informing and educating those present at the polls about election day procedures enhances the free, fair, and transparent character of New Hampshire's elections.

CHALLENGES

Any voter may have his right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials and challengers appointed in writing by the political party committees or the Attorney General may also challenge a voter. RSA 659:27; RSA 659:27-a; RSA 666:4; RSA 666:5.

Usually challenges occur at the time the voter is at the check-in table before being given his or her ballot. No voter or appointed challenger shall challenge a person's qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may, however, occur at any point up until the ballot is deposited in the ballot box. Challengers must be so positioned in the polling place so that they can see and hear each voter as he offers to vote, but challengers cannot be within the guardrail. RSA 666:4; RSA 666:5.

A challenge must be made for a specific reason. No challenge may be made unless an "Asserting a Challenge" form is filled out and signed under oath. See "Asserting a Challenge" form at page 202.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a Challenged Voter Affidavit. RSA 659:27-a. If the challenge is found to have insufficient basis – the evidence is insufficient to make it more likely than not that the person is not qualified - the voter shall be allowed to vote without completing the Challenged Voter Affidavit.

RSA 659:27-32. Challenges to voters are discussed further starting at page 182.

The law makes it a specific felony offense to engage in voter suppression, for example, making a challenge based on information the challenger knows to be false or misleading.

"No person shall engage in voter suppression by knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information. Prohibited acts of voter suppression include:

(a) Challenging another person's right to register to vote or to vote based on information that he or she knows to be false or misleading.

(b) Attempting to induce another person to refrain from registering to vote or from voting by providing that person with information that he or she knows to be false or misleading.

(c) Attempting to induce another person to refrain from registering to vote or from voting at the proper place or time by providing information that he or she knows to be false or misleading about the date, time, place, or manner of the election.

IV. Whoever violates the provisions of this section or whoever conspires to violate the provisions of this section shall be guilty of a class B felony." RSA 659:40.

ABSENTEE BALLOTS

The moderator shall receive absentee ballots from the clerk prior to the closing of the polls or time set for processing of absentee ballots. RSA 657:23; RSA 659:49.

Absentee ballots delivered through the mail or by the voter's spouse, parent, sibling, or child shall be received by the town, city, or ward clerk no later than 5:00 p.m. on the day of the election. RSA 657:17

Absentee ballots from deployed emergency service workers which are received at the polls before the polls close

to voting shall be processed according to the law and if found otherwise in conformance with law shall be counted. RSA 657:21-a, V.

An absentee ballot completed by a disabled voter who appears at the polling place location but is unable to access the polling place due to disability and votes curbside, shall be processed using the same procedure as any other absentee ballot until the polls close to voting. RSA 659:20-a.

ANNOUNCE ABSENTEE BALLOT PROCESSING

At the pre-announced time, the moderator begins processing absentee ballots by announcing that he or she is about to open the envelopes. The moderator removes the envelope containing the ballot of each absentee voter and he or she compares the signature on the affidavit and the application.

Signature matching is not used when the document contains the name of a person who assisted a voter with a disability in completing the form. RSA 657:7. If the voter received assistance, there is no signature comparison. Count the absentee ballot if the other requirements set forth above are satisfied.

Note Senate Bill 527 (2018), effective January 1, 2019, further amends the absentee voting law to more explicitly establish that “The moderator will not compare the voter’s signature on the application with the signature on the absentee ballot when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided.” RSA 657:4; RSA 657:7.

Effective January 1, 2019, Senate Bill 527 enacts a new statute, RSA 657:17-a, Verification of In-Person Absentee Voter. This statute provides that if a voter returns a completed absentee ballot to the clerk’s office in person and either:

- Voluntarily shows the clerk a photo identification that meets the requirements of RSA 659:13 (the requirements for photo identification at the polling place); or
- Voluntarily completes a challenged voter affidavit in the same manner as is required for an election day voter without photo identification

the clerk will mark the envelope and the clerk’s list of absentee voters: “voter verified.” The clerk’s verification of the voter eliminates the need for the moderator to compare the voter’s signatures on the application and affidavit envelope on election day. This provision is expected to reduce the number of signature comparisons that moderators must complete on election day. Clerks and moderators should collaborate to separate the absentee ballot envelopes that will not require signature comparison because the clerk has already verified the voter or because the voter received assistance and the person assisting has signed either the absentee ballot application or affidavit envelope. RSA 657:7; RSA 657:17-a.

If the name of the voter is on the checklist, the affidavit is properly executed, and the signatures match, the moderator then publicly announces the name of the absentee voter. With respect to any voter who has been included in the address confidentiality program under RSA 7:43 or who has been granted a protection order under RSA 173-B, the moderator shall identify such voters as

“confidential voter #1” and “confidential voter #2”, and so forth. RSA 659:50.

If the moderator determines that the absentee ballot will be rejected, the moderator must publicly announce the voter’s name and just that the absentee ballot has been rejected. Do not publicly announce the reason for the rejection. Campaigns and political parties may monitor the absentee ballot processing and try to contact any absentee voter whose ballot has been rejected to encourage the voter to come to the polling place and vote in person if possible.

CHALLENGES OF ABSENTEE VOTERS

All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter, except for voters provided for in RSA 7:46 and those who have a valid protection order under RSA 173-B:4. Challenges cannot be initiated after the ballot is removed from the envelope.

If the absentee ballot is challenged, the moderator shall write on the envelope containing the ballot the word "challenged," number the ballot and write the name and address of the person making the challenge and the basis of the challenge on the envelope or on a form for that purpose.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. If the challenge is based on the reported death of the voter, the supervisors should be consulted, since it is their duty to follow a procedure for striking deceased individuals from the checklist.

The moderator rules on challenges based on all other grounds. If the moderator

determines that the challenge is well grounded, the available evidence makes it more likely than not that the voter is not qualified to vote, the envelope is not opened and it is preserved unopened with other cast ballots. If the challenge is not well grounded, that is the available evidence makes it more likely than not that the voter is qualified to vote, the envelope is opened and the reverse side of the ballot is numbered with the same number written on the envelope. The ballot is then processed in the same manner as an unchallenged absentee ballot. RSA 659:51.

The moderator shall ensure that an “Asserting a Challenge” form (see page 202) is completed for all challenged and rejected absentee ballots, including those that are challenged by the moderator, clerk and other election officials. RSA 657:27; RSA 659:27-a; HAVA Section 703.

PROCESSING ABSENTEE BALLOTS

The moderator opens the envelope containing the ballot in public (envelope is preserved), the ballot is removed (without unfolding it or examining it), the ballot clerks are directed to place a checkmark beside the name of the absent voter on the checklist adding the letters "AV" in red ink. The ballot clerk next draws a single thin line on the checklist through the voter’s last name. After it has been verified that the voter has not voted in person and the checklist has been marked, as the last step the ballot is deposited in the ballot box or inserted into the ballot counting device. The opened (empty) envelope is preserved using the same retention period as the cast ballots. RSA 659:49-b; RSA 659:52; RSA 659:101; RSA 33-A:3-a.

REJECTED ABSENTEE BALLOTS

If the moderator determines the absentee voter is not entitled to vote, the envelope

is not opened and the reason the ballot is rejected is marked on the envelope. The moderator publicly announces the absentee voter's name and that the absentee ballot is rejected. The moderator shall also record next to the name of the absentee voter on the clerk's absentee voter list the word "rejected" and the reason for the rejection. The moderator preserves unopened rejected absentee ballot envelopes using the same retention period as the cast ballots for that election. RSA 659:53. Rejected absentee ballots should be placed in a separate marked envelope/container that is then sealed into boxes with the other ballots.

IMMATERIAL DEFECTS

The moderator shall **not** reject an absentee ballot for any immaterial addition, omission or irregularity in the preparation or execution of any writing or affidavit required herein. RSA 659:54. Immaterial defects include, but are not limited to, stray marks on the ballot, a tear in the ballot, a coffee stain.

No absentee ballot that has been electronically transmitted to a UOCAVA voter shall be rejected for any ballot, envelope or affidavit weight, size or color, or any ink, font size, alignment or color. This means that the ballot must be accepted and counted even if the ballot is on paper that is heavier or lighter than regular ballots, is printed on an odd size of paper or in a different color ink or font. RSA 659:54-a.

Moderators should exercise careful judgment when rejecting an absentee ballot because the signature of the voter on the affidavit does not appear to be signed by the same person who signed the absentee ballot application.

Signature matching is not used when the document contains the name of a person

who assisted a voter with a disability in completing the form. RSA 657:7. If the voter received assistance, there is no signature comparison. Count the absentee ballot if the other requirements set forth above are satisfied.

Note Senate Bill 527 (2018), effective January 1, 2019, further amends the absentee voting law to more explicitly establish that "The moderator will not compare the voter's signature on the application with the signature on the absentee ballot when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided." RSA 657:4; RSA 657:7.

When comparing signatures, the test is whether it is more likely than not that the same person signed both forms. It is a natural and common occurrence that a person's signature will change over time and will have differences even when the person writes out his or her signature several times, one immediately after another. A moderator deciding to reject an absentee ballot because the signatures do not match should be prepared to explain to the Attorney General's Office or a Superior Court judge what specific characteristics on the two signatures were the basis of the decision that they were more likely than not signed by different people. While signature verification is an important safeguard against voting fraud, as with all safeguards, the analysis starts with a presumption of validity and the decision to disenfranchise a voter must be made only when there is sufficient evidence to justify that act.

OUT OF BALLOTS

The moderator should monitor the voter turnout and request the town or city clerk to prepare additional unofficial ballots if it appears that the supply of official ballots

will be exhausted. RSA 659:24; RSA 658:35. Any unused absentee ballots should be authenticated and used first. Best practice is for the clerk to draw a line through the word “Absentee” on the absentee ballot and then sign or initial the ballot. Next, photocopies of the official ballot should be used. These unofficial ballots must be authenticated by the signature or initials of the clerk or a designee prior to the ballots being issued to voters. This will distinguish these extra ballots from any that might be created and added to the official ballots fraudulently.

It is essential that the clerk and the moderator keep an accurate count of the number of absentee or photocopy ballots that are put into use as election day ballots. The total number of ballots used, that is issued to voters, must be reported to the Secretary of State. The total number of ballots used is an important number, because it can be used by the moderator to compare with the total votes cast for particular offices or questions when reconciling the ballot count.

Only authentication marks, typically the signature or initials of the clerk, can be made on these ballots, otherwise, it is a misdemeanor for any election officer to place a mark on any ballot, except when marking a ballot at the direction of a voter with disabilities, extended hours, marking a spoiled ballot or marking a challenged ballot. RSA 659:36; RSA 659:26-a.

The moderator should make his or her best effort to prevent the use of unofficial ballots from inadvertently compromising the secrecy of how the last few voters marked their ballots. For example, if only one unofficial ballot is used and the people who will be counting know who the last voter was, identifying the unofficial ballot would make it possible to tell how that person voted. When the

ballots are examined during hand counting it should not be possible to tell how any voter voted by knowing who used the unofficial ballot. As a general rule, try to have no less than ten voters use unofficial ballots, even if doing so means a few official ballots are not used prior to starting to use unofficial ballots.

Applying the same principle, try to ensure that at least ten voters use the Accessible Voting System (one4all tablet) that must be available for use by voters with disabilities. Ideally, the moderator and election officials would use the system early during election day to ensure their familiarity with the system should they need to assist voters. Other voters can be invited to volunteer to use the system.

VOTING DURING EXTENDED HOURS

RSA 659:26-a provides that if a court orders that the polls are to be kept open for extended hours, the moderator shall cause the ballots cast during those extended hours to be marked with the letters “EH.” The ballots should be marked before they are given to voters. The position of the mark should not interfere with the marking or counting of the ballots and should be uniform on each ballot. If the ballots have offices or questions on only one side, the mark should be put on the opposite side.

These “EH” ballots should be cast and counted in the usual manner, but should be separated and held apart from the other ballots when stored. In the unlikely event extended hours are ordered, but a court later determines that people should not have been allowed to vote during extended hours, a court can order these ballots retrieved from storage, counted, and the votes cast removed from the totals for that election. RSA 659:26-a.

CLOSING THE POLLS

The moderator shall close the polls to further voting at the hour stated in the warrant or notice, unless the hours have been extended. All voters who are standing in line or waiting in a line of cars to get parking or into the parking lot who plan to vote or to register to vote must be allowed to register and/or vote if they are in either line when the polls close. The moderator should oversee the determination of who is at the end of the line, if one exists. If a voter is crossing a room or a parking lot to join the line at the moment the poll is closed, the moderator should use common sense and a sense of fairness and treat the voter as being in line. If the polling place parking lot is full and a line of cars is backed up waiting to gain access to parking, it is necessary to determine the last voter waiting in the line of cars at the moment when the polls close and to allow that voter to get parked and get into the polls to vote. Moderators should enlist the assistance of law enforcement to try to prevent waiting lines of cars and if necessary to identify the final voter in line when the polls close. If the moderator feels it is necessary, notify the Attorney General's Office and Secretary of State in advance of the closing of the polls as soon as you anticipate that there will be a line of cars waiting to gain access to the polling place parking at the end of voting.

The public has a right to observe both voting and counting of ballots. Therefore, do not lock the doors to the polling place as a means of notifying those people who arrived after the polls have been officially closed to voting that they cannot join the line of those who were at the polls before closing and are waiting to register and vote. Moderators should plan to have election officers and/or law enforcement officers available to prevent late arrivals from joining the line of those waiting to

vote after the official hour for closing the polls has passed.

RETURN OF MATERIALS FROM ADDITIONAL POLLING PLACE

If the moderator does not order that the ballots be counted at the additional polling place as provided in RSA 659:59, the assistant moderator at the closing of the polls shall seal the ballot box. The sealing will be done in the presence of the inspectors of the election and certified by the assistant town clerk at such polling place.

CERTIFICATION OF CHECKLIST

After closing the polls at a state election, the moderator and town or ward clerk shall certify on the checklist that it is the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. RSA 659:56. This certification is important should it be necessary to use the checklist as evidence in a court case.

The checklist printed from *ElectionNet* includes, at the end, a page with statistics on the number of voters as of the printing of the checklist and places for the certification before the election by the supervisors of the checklist and certification by the moderator and clerk after the polls close.

The election night certification by the moderator and clerk is a separate and different certification from the certification by the supervisors of the checklist, which is required before the election. After making the final pre-election additions and removals from the checklist, the supervisors are required to certify two copies of the checklist and file them with the clerk. The clerk then brings those two certified copies to the polling

place to be used at the election. RSA 654:29.

COUNTING OF VOTES

The moderator shall oversee the counting of votes by other election officers, including the selectmen and town clerk, and may discharge any other duties relating to the counting of votes. The moderator sets up the voting area for the counting process. No ballot shall be placed within 4 feet of the guard rail during the counting of votes. RSA 659:63. Each moderator should devise a system for counting ballots which will expedite the process. RSA 659:60. New Hampshire Constitution, Part 2, Article 32.

If absentee ballot processing was not previously completed, all absentee ballots must be processed before ballot counting starts. RSA 659:61.

The moderator may select volunteers to assist election officers in counting ballots. These volunteers must be voters in the town or ward or 17-year-olds who would be qualified as a voter were they 18 years old. RSA 658:7 gives the moderator authority to appoint such election officials as he or she deems necessary. Swear in these non-election official volunteers as election officials (inspectors of election pro tempore). As election officials, the volunteer ballot counters are swearing or affirming that they will perform their duties lawfully and they become subject to criminal prosecution for official misconduct pursuant to RSA 666:3. Written oaths must be completed and filed with the clerk. RSA 42:1; RSA 42:7; RSA 42:8; RSA 658:4.

Errors occasionally occur during the calculation of vote totals. Sometimes errors are made when votes from different counting tables are added together, when

totals of hand counted ballots are added to totals of device counted ballots, or when results from tally sheets are transcribed to the Return of Votes. Counting is often completed by election officers who have been on duty for 10-12 hours prior to the start of counting. Adding checks and balances to the counting process will require additional time and/or personnel, but it will be easier and cheaper than conducting a recount. The legitimacy of the election process and the public trust in elections is negatively affected when recounts reveal counting or totaling errors. Moderators are encouraged to consider using one or more techniques for avoiding counting and tabulation errors which are currently used in various towns and cities. See Moderator's Worksheet on page 255 and the Votes in Contests - Examination of Individual Races spreadsheet on the following pages.

In towns using ballot counting devices in party primaries, moderators must order and print out the "long report" tape so that "ballots cast" totals can be obtained for each party. RSA 659:73.

To minimize the chance of inadvertent mistakes, moderators are encouraged to use the services of bookkeepers, accountants, math teachers, the town treasurer, or others who work daily with numbers to reconcile the results on election night, providing the forms to them in advance. Ideally, a person with these skills who does not otherwise work the polls or participate in the counting would join the process at the end. This person should compare the **votes** in each contested race with the tallies of **voters** and **ballots** cast.

Ideally the total of the **votes** for all candidates and write-ins, plus the total number of overvotes (choices in a contest

which are given up by a voter when they mark more choices than instructed in the “Vote For Not More Than” instructions on the ballot) and undervotes (choices not made by the voter in a contest on the ballot) should equal the number of **ballots** used and **voters** voting. (Overvotes and undervotes are combined and reported as “blanks” on the Accuvote results tape.) Your results are facially invalid if the number of votes cast for candidates (including blanks) or the total number of yes plus no votes (plus blanks) for a question is greater than the total number of ballots used or the total number of voters checked off as voting. A few extra minutes of checking on election night can easily identify a tallying mistake and avoid both a loss of public confidence in the ballot counting process and the time and expense of a recount.

DECLARING THE RESULTS

The moderator must publicly declare the results of the election. Each write-in vote, even votes for fictitious or historical figures, should be announced in some manner. Some voters will test the ballot counting process by writing in a name they believe no one else would write in, and then check to see if that vote was counted. Posting a copy of the worksheet where scattered write-in votes were documented is sufficient if the number of write-ins with few votes are too many to orally announce. New Hampshire Constitution, Part 2, Article 32; RSA 659:70.

If a town or ward comprises an entire Representative district, the moderator shall declare the state representative(s)-elect. RSA 659:82. Multi-ward or multi-town districts are declared by the Secretary of State.

Across the United States, one area of election administration that is subject to

public scrutiny and criticism is the process by which numbers are transmitted from polling place officials to the state officials who determine the official results of regional and statewide contests. One way to reassure suspicious voters is to make the results from each polling place easily accessible at the polling place and locally, so that the voters can compare what local election officials say the results are with the numbers used by the Secretary of State to determine the winner of the regional and statewide races. Therefore, it is recommended that the moderator post a copy of the written results at the polling place on election night and that the clerk keep them available at his or her office following the election.

REPORTING THE RESULTS

After all state election ballots have been counted, the moderator must provide the clerk the election results, and the town or ward clerk must report the results on the Return of Votes forms provided by the Secretary of State by 8 AM on the day following the state election. Subject to rules established by the city clerk, the ward clerk should send copies to the city clerk. Subject to the request of the Secretary of State, Names on Checklist and Moderators Worksheet(s) (page 255) must be completed with 48 hours after the closing of the polls. The city or town clerk retains a copy of the Return of Votes, Names on Checklist, Moderator’s Certificate, Moderator’s Worksheet, as well as any tally sheets and reconciliation worksheets that may have been used for the election. Moderators should keep copies of these documents to answer any questions following the election. RSA 652:14-c; RSA 659:73; RSA 659:75.

At polling places that use a ballot counting device, both the zero tape run before the polls open to voting and the results “long report” tape printed after the polls close

Duties of Moderators

to voting, must be kept with the moderator's work sheets, by the clerk. The zero and long report results tape should **not** be sealed into the boxes with the ballots. The results tape need not be sent to Concord with the return of votes, however, a copy is welcome if you print an additional copy.

The marked checklist is certified by the supervisors, clerk and moderator, and submitted to the clerk, who shall allow the supervisors of the checklist/registrars to scan barcodes of those who voted, return voters to undeclared after a primary, enter new voter registrations, record challenged voter affidavits, absentee ballots, etc. RSA 654:29; RSA 659:56; RSA 659:57; RSA 659:73; RSA 659:74; RSA 659:102.

SEALING AND CERTIFYING BALLOTS

Ballots must be sealed immediately after the votes at a state election have been tabulated, the results have been announced, and the return prepared. The moderator or his or her designee, in the presence of the selectmen or their designee, shall place the:

- Cast ballots;
- Cancelled ballots;
- Uncast ballots;
- Ballots from any additional polling places; and
- Successfully challenged absentee ballots

in containers supplied by the Secretary of State. RSA 659:97.

The moderator or his or her designee shall enter the following information on the label for resealing ballots in the appropriate place: the number of ballots cast, canceled and uncast, and the moderator and selectmen, or their

designees, shall endorse the sealer. RSA 659:95; RSA 659:97.

The container shall be sealed in public by the moderator. Use the following steps to seal a cardboard box of ballots for storage:

1. Seal the flaps closed and secure all sides of the box with filament tape. When the bottom or some sides are only secured by the original glue, they sometimes break open during transport and storage.
2. Complete the information on the "Label for Resealing Ballots." See page 233 for an example of this label. Affix this label onto the box over the flaps.
3. Using red tamper-evident tape, wrap one strip of this red tape completely around the box, covering an edge of the resealing label. This security tape changes appearance if it is pulled loose after being sealed, creating evidence that the box has been tampered with.
4. Stick a short strip of the red tamper evident tape over each edge of the "Label for Resealing Ballots."

Do **NOT** seal the copy of the Return of Votes, worksheets, tally sheets, and Challenged Voter Affidavits in the secured ballot boxes, as these documents may be necessary to resolve tabulation questions following election night and investigations of voters who did not present voter IDs. Sealing tally sheets and working papers from the ballot count in the box of ballots prevents a review of the count of votes, since the ballot box cannot be accessed without:

- (a) a recount,
- (b) a court order, or

(c) a request of the Secretary of State and the presence of a state election official when the box is opened. RSA 659:75.

Apparent errors in the Return of Votes and Ballots Cast figures discovered by the Secretary of State following the election can often be quickly resolved with a high degree of confidence if the moderator and clerk can review their tally sheets and working papers used to reach the numbers reported on the Return of Votes.

DELIVERY OF BALLOTS TO CLERK

The moderator, or his or her designee, and the selectmen, or their designee, having publicly sealed and certified the state election ballots shall deliver the sealed containers to the town or city clerk, or his or her designee. The clerk shall, in their presence, enter the time and his or her signature on the sealer. RSA 659:98.

The moderator, or his or her designee, shall deliver the Challenged Voter Affidavits and Asserting a Challenge forms to the town or city clerk, or his or her designee. RSA 659:13; RSA 659:103; HAVA Section 703.

REPORTING WRONGFUL VOTING & ELECTION VIOLATIONS

The moderator has the responsibility to report any violations of RSA 659:34 through RSA 659:49 to the Attorney General's Office. RSA 659:45. Phone calls should be placed to 1-866-868-3703 (toll free). A written statement or report will usually be requested and the report should be mailed to Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301-6397. At State elections the Attorney General's Office generally has several attorneys and investigators working around the State

who are available to respond on short notice to a polling place. It is often much easier to address concerns with voting procedures or questions about a voter's qualifications on election day while the polls are open than to address the issue after election day.

OPTIONAL COUNTING AT ADDITIONAL POLLING PLACE

The moderator may, in writing, order the assistant moderator to process absentee ballots and to count votes cast at the additional polling place in the presence of and with the assistance of the assistant town clerk and election officers assigned to that polling place, in the same manner as at the central polling place. After absentee ballots are processed and counting is complete, the assistant moderator shall place the:

- Counted ballots;
- Duplicate checklists used at the additional polling place;
- Absentee envelopes;
- Spoiled ballots; and
- Unused ballots

in the ballot box and shall seal it, and the assistant town clerk shall certify the same. The assistant moderator with the assistant town clerk shall immediately deliver the ballot box with its contents and a written report of the count signed by both to the moderator at the central polling place. RSA 659:59.

Polling places that use ballot counting devices should be directed by the elected moderator to produce the tape reporting the totals cast at that polling place and then "end" the process before moving the device, ballots, and the tape to the central polling place. The results at the additional polling places should be reported. The sealing and transportation should be done

by more than one election officer. At partisan elections, at least one election officer affiliated with each party should be allowed to witness the sealing and transportation.

At the central polling place, the elected moderator will oversee tallying of the votes from all polling places and will announce the results.

LOCAL RECOUNTS

RECOUNT (TOWN ELECTION)

Requests for recounts are filed with the clerk, who will schedule the recount. The moderator along with the town clerk and board of selectmen constitute the board of recount and shall recount the ballots. If one of the board of recount is a candidate for the office being recounted, the moderator shall appoint an assistant to serve in the same capacity. RSA 669:32. The statute does not explicitly authorize the moderator to appoint other election officers to assist the board of recount, however, it is common practice for moderators to do so.

RECOUNT (SCHOOL ELECTION)

The board of recount in a school district election is made up of the school district clerk, the school district moderator, and the members of the school board. RSA 671:32, II. As with town recounts it is common for the moderator to appoint election officials to assist the board of recount.

RECOUNT PROCEDURES

The process to be used in conducting the recount is left to the discretion of the Board of Recount. The Secretary of State has adopted rules of procedure for recounts. Boards of recount may wish to consider adopting those rules.

ADVANCE WRITTEN NOTICE TO CANDIDATES OF RECOUNT

Every candidate for the office(s) that is going to be recounted and each of the persons who have requested the recount of a question shall be sent a written notice.

The clerk, ideally in coordination with the board of recount, sets the date, time, and location for the recount.

The notice should include a written description of the process the board of recount plans to use to conduct the recount. If the process is going to involve the use of more than one team of officials counting, the notice should state the maximum number of teams anticipated. It should advise that the candidates or persons requesting the recount must have a sufficient number of assistant observers present to observe each counting team. If they fail to have an observer for each team, they waive the opportunity to do so. The notice should state that each observer will be afforded an opportunity to see, but not touch or handle, each ballot. That will be the one opportunity the observer will have to protest how that ballot is being counted. If the observer wishes to protest how the recount team is counting a particular ballot he or she needs to do so at the moment in time when that ballot is being counted by the team.

A system should be adopted to identify each ballot that any observer protests. Typically these ballots are segregated into a separate pile at each counting location.

At some point, typically after all ballots have been examined and counted by the team(s), but before the team tallies are totaled, all the protested ballots should be ruled on by the board of recount. By ruling on protested ballots before the team tallies are totaled the decision on each protested ballot is made before it is

known whether the decision will affect the outcome of the election. This reinforces the neutrality of the counting process.

The intent of the voter for each protested ballot is determined by a majority vote of the members of the board of recount. RSA 659:64. If the majority of the board of recount determines that a ballot should be counted as a vote for a particular candidate, that vote, even if the ballot is further protested, must be added to that candidate's total votes.

The candidates or the persons requesting the recount of a question must then be given an opportunity to protest the decision of the board of recount. When the board's decision is protested, the board of recount should adopt some system to document how it ruled on each ballot. Even though the ballot will be flagged as protested, the vote from that ballot as determined by the board of recount must be included in the total of votes credited to the candidate. Typically, only the ballots protested at this second step will be examined by a court hearing an appeal of the recount. The system used to document the board's decision and to identify the ballot as a protested ballot should not add marks to the ballot or alter the ballot in any way that might affect the ability of a court on appeal to examine the marks made on the ballot by the voter.

One approach is to staple a sequentially numbered piece of paper to each protested ballot, writing on the paper the board's decision. Write on the paper either the name of the candidate(s) who is credited with a vote from the ballot or the word "yes" if the ballot is to be credited as a yes vote on a question or the word "no" if the ballot is to be credited as a no vote on a question.

Appeals from decisions made by a board of recount typically should be limited to disputing the Board's decision on how particular ballots were counted. Preserve protested ballots in the same manner as the other ballots from the election, but segregated in a separate sealed container so that the clerk can produce specific protested ballots for review by the court hearing the appeal. Parties to the appeal will likely want to obtain copies of the protested ballots in advance of the hearing on the appeal. The clerk should have at least one witness present whenever the segregated sealed container of protested ballots is opened to make copies for the parties. Best practice is to give the parties notice of a date and time when this will occur, allowing all interested parties to observe the process. Once copies have been made, the protested ballots must be re-sealed into the segregated container and preserved.

RULES OF ORDER

Moderators control election and meeting day activities. Some moderators find it helpful to adopt rules of order.

Established systems of rules such as Robert's Rules of Order generally are too complex and afford too much opportunity for individuals with extensive knowledge of the rules to gain unfair advantage. A simple set of rules may be more helpful. Some moderators announce the rules and post them at the meeting place. The rules should always include notice to the voters that they may by motion seek to overturn decisions made by the moderator.

Voters who believe the moderator has made a procedural error, is cutting off debate prematurely, or has made a mistake in declaring a result should have notice that they need to immediately put the moderator on notice through a motion to

Duties of Moderators

overrule the moderator or in the case of the declaration of a vote, a motion for a paper ballot vote.

When complaints of procedural errors by a moderator are reviewed by the Attorney General's Office, additional deference to

the moderator is shown when the record of the meeting establishes that the complaining party had notice of his or her right to move to overrule the moderator or for a paper ballot vote on a question.

IX. DUTIES OF SUPERVISORS OF THE CHECKLIST

A major responsibility faced by local election officers is conducting elections in a manner that encourages voting – making the process quick, easy, and fair to all – while at the same time ensuring that the outcome of elections are not illegally influenced by unqualified persons voting.

Procedures that make voting easy inherently also make voting fraud easier. Procedures that detect and deter voting fraud by their nature make it more complex and time consuming to register and vote. Local election officials must strive to attain the proper balance between these competing interests.

The term “supervisors of the checklist” shall include any city board of registrars or similar body performing the functions of registering voters and correcting the checklist in cities. RSA 652:15.

VOTER REGISTRATION FORMS

New Hampshire has two versions of the voter registration form:

- Form A – A one-sided form used more than 30 days before an election (page 218; and
- Form B - A two-sided form used starting 30 days before an election and at the polling place on election day (pages 219 - 220).

RSA 654:7.

Both voter registration forms have a section in the upper right hand corner to document the circumstance for use of the form:

____ *NEW REGISTRATION* I am not registered to vote in New Hampshire.

____ *TRANSFER* I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire.

____ *NAME CHANGE/ADDRESS UPDATE* I am registered to vote in this town/ward and have changed my name/address.

There is public and legislative interest in the number of new voters being registered. Distinguishing new voter registrations from circumstances where a voter is already registered in New Hampshire but has moved from one town/ward to another or is using the form to document a name or address change helps provide accurate information on new registrations, in particular election day registrations. RSA 654:7.

When supervisors receive an applicant’s voter registration form in person, it creates an opportunity for a dialogue with the voter. You can assist the voter in correctly and completely providing the information needed to maintain accurate records of who is registered in your town/ward.

It is very beneficial to obtain a voter’s complete middle name and to enter the full name into *ElectioNet*. The full middle name makes it easier to confirm whether this voter is the same voter who previously registered in another jurisdiction.

The voter registration form requires an applicant to identify the place where the person was last registered to vote. This information is helpful in determining whether the voter is the same person as or a different person than a voter registered in another town/ward/state who has the same name.

Obtaining the place last registered to vote also allows a notice to be sent to the town/ward where the person was last

registered, so the voter can be removed from that jurisdiction's checklist. Routinely exchanging notices of transfer with other jurisdictions keeps your checklist more accurate and minimizes the amount of work required for the statutorily mandated ten-year purge.

Refer to sample voter registration forms on pages 218 - 220, with an oval showing where the new questions appear.

Supervisor reminder: Always check Inquiries in *ElectioNet* before entering a new voter, whether an existing New Hampshire voter transferring his or her registration or an out-of-state voter, who may be a new voter in New Hampshire or who may be someone previously registered here who is moving back into New Hampshire. It is quicker and less work to take this step than to merge two records if it is later determined the person was previously entered into *ElectioNet*.

A copy of the voter registration form needs to be made and sent to election officials from the jurisdiction where a new voter was most recently previously registered. RSA 654:13 requires that a notice of transfer be sent if the voter was last registered in another New England state. *ElectioNet*, also known as the Statewide Voter Registration System, currently will notify the New Hampshire municipality where the voter was previously registered, so there is no need to send a copy of the form to New Hampshire municipalities.

STANDARD OF PROOF

The supervisors of the checklist determine whether an applicant is qualified to register to vote. The supervisors of the checklist act in a quasi-judicial* capacity and are obliged by law to act impartially based on the evidence before them and facts known to them.

The decisions made by the supervisors of the checklist are subject to review by the Superior courts.

*The term "quasi-judicial" in this context means having a partly judicial character. The supervisors possess the right to hold meetings and conduct investigations as to the qualifications of an applicant for registration as a voter. An applicant may file a complaint with the superior court stating that his name has been illegally kept from the checklist and asking to have his or her name added thereto. RSA 654:14; RSA 654:42.

Any decision to reject an applicant must be appropriately documented. The rejected applicant must receive proper notice of the decision within 7 days. RSA 654:13; RSA 654:23.

RSA 654:11 establishes the standard of proof or test to be used by the supervisors when deciding if an applicant is qualified to vote. The standard of proof is the standard of proof that will be applied by the courts if the supervisors' decision is appealed.

If there is contradictory evidence or questionably sufficient evidence before the supervisors regarding any particular candidate's identity, age, citizenship or domicile qualifications, RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is **more likely than not** that the applicant is not qualified.

Stated in other terms, if the evidence that the person is not who he or she claims to be, will not be age 18 on election day, is not a United States citizen, or is not domiciled in the town or city ward where he or she seeks to register is of greater

weight than the evidence that he or she is qualified, then it is proper to deny the application.

This standard is also sometimes referred to as a preponderance of the evidence standard of proof. Stated a third way, supervisors should reject an application if the evidence as a whole shows that it is more probable than not that the applicant is not who he or she claims to be, will not be 18 by election day, is not a United States citizen, or is not domiciled in the town or city ward where he or she seeks to register and vote. Decisions must be made by a majority vote of the supervisors.

Application to Supervisors. When the supervisors of the checklist receive a registration form from the town or city clerk or when an applicant submits the form to said supervisors in person at a session for the correction of the checklist, the supervisors of the checklist shall cause his or her name to be added to the checklist, unless it is established that it is more likely than not that the applicant is not qualified to vote in the city or town under RSA 654:1 through RSA 654:6. All decisions of the supervisors of the checklist shall be made by majority vote thereof.” RSA 654:11.

A chart on page 217 summarizes the types of documentation authorized for voter registration.

PROOF OF IDENTITY

The applicant must prove his or her identity during the application process. If a person has any one of the following forms of photo identification in his or her immediate possession, he or she must present it when applying for registration:

- (1) Photo driver’s license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

These forms of identification are considered presumptive evidence of the identity of an applicant. RSA 654:12, II(b). The supervisors of the checklist may approve other forms of photo ID that they deem to be reasonable. RSA 654:12, II and III.

A person who does not have one of the approved photo identifications described above may establish identity through the completion of a Qualified Voter Affidavit. Up until 30 days prior to an election, the applicant may use the separate Qualified Voter Affidavit form (page 199). Starting 30 days before an election and on election day the applicant may use the qualified voter affidavit section on the bottom of the back side of the Voter Registration Form B (found in *ElectioNet* under Help/Instructions). RSA 654:12.

A driver’s license from another state is presumptive proof of identity, but not of domicile in New Hampshire. Unless you have evidence that contradicts the proof of identity offered by the out-of-state driver’s license, you must accept it as proof of identity. This means the person can then swear or affirm the qualified voter affidavit used until 30 days prior to an election, or the domicile or qualified voter affidavit sections on the second side of Voter Registration Form B, used starting 30 days prior to an election and on election day. Generally, you must accept a properly executed affidavit. RSA 654:12.

NURSING HOME RESIDENTS

Residents of a nursing home or similar facility who no longer possess the usual forms of identification, may prove their identity through verification by the administrator of the facility or his or her designee. If an applicant for voter registration proves his or her identity by having it verified by a nursing home administrator, that registration will be treated in the same manner as would a registration where the applicant proved his or her identity with qualified photo identification. RSA 654:12, III

PROOF OF DOMICILE

The New Hampshire and United States Constitutions establish that every United States citizen who is at least 18 years old on election day who is not disqualified from voting has a right to vote somewhere. A person can be disqualified due to being under age, being a convicted felon who is currently incarcerated for that conviction, being a person who has been convicted of a willful election law violation, or not being a citizen of the United States. Otherwise, the person has a right to vote somewhere. Domicile analysis should be about where the person votes, not if the person votes.

The determination of whether a person is domiciled in the town or ward where he or she seeks to vote is a challenging but critical part of conducting lawful, fair elections that encourage voting.

RSA 654:1, I. The law on domicile provides:

RSA 654:1 Voter; Office Holder.
I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of

New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.

I-a. A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I.

II. Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law.

RSA 654:2 Temporary Absence or Presence. –

I. A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. Domicile for purposes of voting is a

question of fact and intention coupled with a verifiable act or acts carrying out that intent.

A voter can have only one domicile for voting purposes.

No person shall be deemed to have lost a domicile by reason of his or her presence or absence while:

- the voter or his or her spouse is employed in the service of the United States;
- nor while engaged in the navigation of the waters of the United States or of the high seas;
- nor while a teacher in or student of any seminary of learning;
- nor while confined in any public prison or other penal institution;
- nor while a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility.

II. (a) A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire.

(b) A person who has been present and residing in one town or ward in New Hampshire for 30 or fewer days is presumed to be present for temporary purposes unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent.

(c) For the purposes of this chapter, temporary purposes shall include, but are not limited to, being present in New Hampshire for 30 or fewer days for the purposes of tourism, visiting family or friends, performing short-term work, or volunteering or working to influence voters in an upcoming election.

(d) For the purposes of voter registration under RSA 654:7, IV(c), an applicant shall demonstrate an intent to make a place his or her domicile by providing documentation showing that the applicant has a domicile at the address provided on the voter registration form. Such documentation may include, but is not limited to:

(1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning in that place;

(2) Evidence of renting or leasing an abode at that place for a period of more than 30 days, to include time directly prior to an election day;

(3) Evidence of purchasing an abode at that place;

(4) A New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his or her residence;

(5) Evidence of enrolling the person's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that place, using the address where the registrant resides;

(6) Identifying that place as the person's physical residence address on state or federal tax forms, other government-

issued identification, or other government forms that show the domicile address;

(7) Evidence of providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(8) Evidence of obtaining public utility services for an indefinite period at that place; or

(9) Evidence of arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual using that facility's address as the individual's domicile address for voting purposes.

(e) An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided.

III. An individual applying for registration as a voter 30 or fewer days before an election shall use the election day registration form required by RSA 654:7, IV(c) which shall require the applicant to provide the date he or she established his or her voting domicile in New Hampshire. The registration form shall require the voter to identify and provide evidence of a verifiable action he or she has taken carrying out his or her intent to make the place claimed on the voter registration form his or her domicile.

IV. A person may register on election day through use of an acknowledgment of domicile evidence obligation on the registration form and vote if he or she does not have any document in his or her possession at the polls providing evidence of an action carrying out his or her intent to make the address claimed as his or her voting domicile. A person relying on an acknowledgment of domicile evidence obligation to register must mail or present evidence of an action taken before registering to vote to carry out his or her intent to make the address claimed his or her domicile to the town or city clerk within 10 days following the election, or within 30 days in towns where the clerk's office is open fewer than 20 hours weekly.

V. The supervisors of the checklist, as soon as practical following an election, shall determine which registrants of that election acknowledged there was no evidence of intent to be domiciled at their address or relied solely on an acknowledgment of domicile evidence obligation to register and vote, and, of those registrants, those who failed to mail or present evidence of having taken some action to carry out their intent to establish domicile at the address listed on their voter registration applications to the clerk by the deadline. The supervisors shall attempt to verify that each such person was domiciled at the address claimed on election day by means including, but not limited to:

(a) Examining public records held by the town or city clerk, municipal assessing and planning offices, tax collector, or other municipal office that may house public records containing domicile confirmation; or

(b) Requesting 2 or more municipal officers or their agents or state election officers or their agents to visit the address

Duties of Supervisors of the Checklist

and verify that the individual was domiciled there on election day. In unincorporated places that have not organized for the purposes of conducting elections, county officers may be asked to perform this function; or

(c) Referring the registrant's information to the secretary of state, who shall cause such further investigation as is warranted.

VI. Any case where supervisors are unable to verify the applicant's domicile or where evidence exists of voting fraud shall be promptly reported to the Secretary of State and to the attorney general, who shall cause such further investigation as is warranted. After receiving confirmation from the Secretary of State that an individual is not domiciled at the address provided, the supervisors shall also initiate removal of the person from the checklist by sending the person the notice required by RSA 654:44.

A person can only have one domicile for voting purposes and it is the one place, more than any other, where the individual has established a physical presence and acted to carry out an intent to make that place his or her domicile.

The supervisors are to look at the applicant's manifestations of intent, the verifiable act or acts taken that carry out the intent, to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. Acts taken to carry out the intent to make a place one's domicile include, but are not limited to any **one** of the following:

(1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning in that place;

(2) Evidence of renting or leasing an abode at that place for a period of more

than 30 days, to include time directly prior to an election day;

(3) Evidence of purchasing an abode at that place;

(4) A New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his or her residence;

(5) Evidence of enrolling the person's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that place, using the address where the registrant resides;

(6) Identifying that place as the person's physical residence address on state or federal tax forms, other government-issued identification, or other government forms that show the domicile address;

(7) Evidence of providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(8) Evidence of obtaining public utility services for an indefinite period at that place; or

(9) Evidence of arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual using that facility's address as the individual's domicile address for voting purposes.

An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is

listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided. The written statement need not be on the state form, but the statement must include the same information. A “Confirmation of Domicile” form is available in *ElectioNet* Instructions listed as “Domicile Confirmation Statement.” See also in forms at page 223. It is **not mandatory** that a person prove that he or she took any one or more of these actions carrying out his or her intent to established domicile in a particular town or ward to be qualified to vote there. Each, however, is evidence of where a person’s one voting domicile is located.

New Hampshire does not impose a requirement that a person have lived at his or her new domicile for any period of time before being eligible to register and vote. The domicile provision does not prevent a person from moving to a New Hampshire town or ward and voting on the same day he or she moves into the new town or ward.

New Hampshire law does create a rebuttable presumption that a person who has been present and residing in New Hampshire for 30 or fewer days is present for temporary purposes. The person can rebut or overcome this presumption by asserting he or she has the intention of making the place where he or she is residing his or her voting domicile and has acted to carry out that intent. RSA 654:2, II (b).

Temporary purposes include, but are not limited to, being in New Hampshire for tourism, visiting family or friends,

performing short-term work, or volunteering or working to influence voters in an upcoming election. RSA 654:2, II(c).

To provide guidance for the determination of domicile and to make the process of registering to vote easy and quick for most applicants, the law establishes certain documents as **presumptive** proof of being qualified as a voter.

RSA 654:12 - Determining Qualifications of Applicant.

“II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

- (a) Any one of the following documents is presumptive evidence that the individual seeking to vote meets the domicile requirement, provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:
- (1) New Hampshire driver's license.
 - (2) New Hampshire vehicle registration.
 - (3) Armed services identification, or other photo identification issued by the United States government.”

These documents are presumptive only. The ultimate decision to accept or reject the application lies with the supervisors of the checklist or, in cities, with the registrars. (References to the supervisors apply equally to registrars who serve the same role in the cities.) Provided the supervisors possess evidence that, in their judgment, makes it more likely than not that the applicant is not domiciled where shown on one of these presumptive documents, the supervisors may vote to

reject the applicant. RSA 654:12, II(c). It is expected, however, that most applicants will possess one of these documents and will be able to register quickly and conveniently.

The law requires that the supervisors of the checklist, or the clerk acting as their agent, **shall** require the applicant to present proof of identity, citizenship, age, and domicile. However, the law continues to give the supervisors broad discretion as to what, in addition to the presumptive documents, they choose to accept. The supervisors may accept, and by inference may not reject, any reasonable documentation to prove identity, age, citizenship, and domicile.

RSA 654:12 - Determining Qualifications of Applicant.

“I. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, **shall** require the applicant to present proof of citizenship, age, and domicile, as provided in the following categories.”

In the event an applicant cannot produce the proof necessary to qualify as a voter, the law also sets forth the forms of an affidavit that the person can use in lieu of other proof of his or her identity, or citizenship. See an example of the Qualified Voter Affidavit on page 199. If an applicant for registration more than 30 days before an election has no proof of domicile with him or her, the applicant should be given the Verifiable Action of Domicile Form A. This is a list of statutorily recognized forms of proof of domicile, in effect instructions on what to bring when applying for voter registration. The applicant should be advised to retrieve proof of domicile and return to complete the registration. The applicant can also register without proof of domicile starting 30 days before an election and on

election day if he or she is not aware of possessing documentary evidence of having acted to carry out his or her intent to establish domicile. Using the second side of Voter Registration Form B, the applicant can initial the lower domicile option and sign that side of form B swearing or affirming that he or she is qualified as a voter.

In an effort to deter voting fraud and to make prosecution of voting fraud more feasible, the affidavits explicitly require the applicant to swear or affirm the truth of his or her written statements in front of an election officer or other official qualified to take oaths. (moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisors of the checklist, registrar, deputy registrar, notary public or justice of the peace.)

HOMELESS APPLICANTS

“All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election.” New Hampshire Constitution, Part 1, Article 11. Both the New Hampshire and United States Constitutions establish that a homeless person has the same right to vote as a person who owns, leases, or rents a home. The same requirements for domicile apply to all. A homeless person has a right to register and vote in that town or ward where he or she, “more than any other place, has established a physical presence and manifests an intent [has acted to carry out an intent] to maintain” his or her domicile. RSA 654:1. This may be the street or parking lot where a person living in a car parks/sleeps, more than any other place. This may be the home of another where, more often than any other, the homeless person sleeps on a couch. This can even be the park or area under a

bridge where, more than any other place, the homeless person sleeps. A person who is otherwise qualified to vote, cannot be denied voter registration because he or she is homeless. Request the applicant to provide the best available mailing address, which may be the address of a homeless shelter, church, social service organization, relative, etc. who would receive and pass along mail sent to the applicant.

STUDENT VOTERS

Treat students like any other person applying for registration or, if already registered, seeking to vote.

PROOF OF IDENTITY

RSA 654:12, II(b) establishes a list of documents which are presumptive proof of identity. These documents need not be currently valid, may show an address in another town/city or even state, but are adequate to establish identity for the purposes of swearing or affirming an affidavit.

RSA 654:12, II - Determining Qualifications of Applicant.

“(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a qualified voter, domicile, or election day (registration form) affidavit or a sworn statement on the voter registration form used starting 30 days before an election and on election day:

- (1) Photo driver's license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.”

As was the case with the documents established as presumptive proof of domicile, these documents can be rejected as proof of identity if the election official has evidence that contradicts them. It is necessary that the contradictory evidence make it more likely than not that the person is not who he or she claims to be.

Supervisors may accept any other form of photo ID that they deem reasonable as proof of identity. RSA 654:12, II. The purpose of the statute is to require an applicant who arrives to register to vote without proof of his or her qualifications to register and vote provided he or she can establish his or her identity and is willing to sign affidavit(s) under penalty of law.

The process is made more formal in order to ensure the applicant understands the importance of the process and to provide a record of who took the affidavit oath to aid in prosecution should it later be established that the affidavit was not true.

The affidavit forms each require the affiant, the applicant, to swear to an election official, notary or justice of the peace who must then himself or herself sign the form attesting to having taken the oath. See Qualified Voter Affidavit on page 199 and Voter Registration Form B, second side on page 220. The forms are also available in *ElectioNet* under Help/Instructions.

As a general practice, supervisors should **only accept** voter registration affidavits if they have been signed **in their presence at the supervisor's request**. This will help the state avoid mailing follow-up letters to those voters whose affidavits were not requested by a supervisor of the checklist.

If supervisors find themselves receiving affidavit forms they have not asked for and do not require for voter registration,

it is recommended that they communicate with those individuals who are generating them. The purpose is to obtain and record in *ElectioNet* forms that are needed for voter registration, nothing more nor less.

If voters submit unnecessary affidavits during voter registration, supervisors are encouraged to note this fact in the “For Official Use” box on the front page of the voter registration form, and to subsequently enter in *ElectioNet* only those affidavits that **they** deemed necessary for voter registration.

APPLICANTS MUST PROVIDE PROOF OF QUALIFICATIONS

RSA 654:12 requires all applicants to provide proof of their qualifications as voters to the supervisors or the clerk.

DETERMINING QUALIFICATIONS OF APPLICANT

When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile.

Any person whose name is not on the checklist but who is otherwise a qualified voter shall be entitled to vote by requesting to be registered to vote at the polling place on election day. The voter may then vote at that election. The applicant shall be required to produce appropriate proof of qualifications as provided in RSA 654:12.

While it is mandatory that some proof of qualifications be produced, the supervisors and the clerks, acting in accordance with the supervisor’s guidelines, can approve reasonable documentation to establish the voter’s qualifications with respect to identity, age, citizenship and domicile. RSA 654:8. The identity, age, citizenship, and domicile

requirements in RSA 654:12 includes the term “reasonable” to describe the proof or documentation required. Furthermore, the state and federal constitutions still require that anyone not disqualified as a voter (under age, incarcerated felon, etc.) must be allowed to vote somewhere. It is inherent in this requirement that an individual whose circumstances do not allow or anyone who chooses not to have a driver’s license, not to register a vehicle, not to purchase utility services, etc., must have some method available by which to prove his or her domicile. The Voter Registration Form B, used starting 30 days before an election and on election day, allows an applicant who does not have documentary evidence of his or her qualifications to register and vote by using the second side to swear or affirm his or her identity, age, citizenship, and domicile. Completing the necessary components of the second side and swearing/affirming to his or her qualifications fulfills the applicant’s duty to prove his or her qualifications.

The statute that establishes the requirement that a person must be domiciled in the state to hold elected office provides that “Registration to vote or voting in another state during the relevant time period shall create a presumption that a person does not have a domicile in this state.” RSA 655:2.

INCARCERATED FELONS

A person sentenced to serve time in prison for a felony, from the time of imposition of his sentence until his final discharge, may not vote unless the sentence is suspended or the individual is paroled. A person sentenced for a felony to a suspended sentence and/or probation, who never is incarcerated in prison does not lose his or her right to vote. An individual sentenced for a felony forfeits any office held at the time of

sentencing and may not become a candidate for, seek party nomination for, or hold public office until the sentence is finally discharged. RSA 607-A:2; RSA 654:5.

People confined in a penal institution in pre-trial detention or as a result of a conviction for a misdemeanor retain the right to vote. Most people sentenced to County Corrections fall in this category. Their domicile for voting purposes is the town or city where they had their domicile immediately prior to being confined. Persons confined in a penal institution must vote by absentee ballot. RSA 654:2-a.

The Secretary of State forwards communications from different official sources to local jurisdictions that contain evidence of incarcerations for felonies. Some of these persons' terms of incarceration have already been served. When notified of a voter's current felony incarceration, supervisors of the checklist should remove the individual from the checklist. Supervisors should take time to identify the period of incarceration and use it to assess whether a person has served time for a felony and is again eligible to register and vote.

It is necessary to make a separate determination of whether the person is eligible to hold/seek office at any particular moment in time. In some cases it may be necessary to consult with the County Attorney or to examine court records to determine when a person's sentence has been finally discharged. Final discharge requires fulfilling all requirements of the sentence, so in cases requiring restitution, community service, etc., the felon's return to the community and regaining the right to vote, does not necessarily mean that the sentence has been finally discharged and that the

individual can seek or hold office. The Attorney General's office is available to assist supervisors in determining whether a person who has been convicted of a felony is eligible to vote or eligible to seek/hold office.

LIFETIME DISQUALIFICATION

Any person convicted of bribery or intimidation relating to elections or any willful violation of the election law is forever disqualified from voting, seeking or holding public office. New Hampshire Constitution, Part I, Article 11; RSA 654:6. This means a person purposely voting twice in one election, otherwise purposely committing voter fraud, purposely committing voter intimidate crimes, or purposely engaging in unlawful voter suppression may, in addition to paying a fine and/or going to prison, lose his or her right to vote for life. The right to vote can only be reinstated by the Supreme Court.

VOTING TWICE IN THE SAME ELECTION PROHIBITED

To become registered the applicant will have to sign, under penalty of voting fraud, the registration form that includes the phrase "and if registering on election day, that I have not voted and will not vote at any other polling place this election." RSA 654:7. If an election official, another voter qualified to vote in the polling place, or a challenger appointed in writing by the state political party has evidence that a person has already voted in the election, by absentee ballot or otherwise, they may make a voter challenge with the moderator. After the election any evidence that a person voted in one town by absentee ballot and in a second town in person should be reported to the Attorney General's Office. It is a felony to vote in the same election in New Hampshire and in some other state.

The Legislature has authorized New Hampshire to participate in data exchanges with other states, in part for the purpose of identifying individuals who may have unlawfully voted in two states in the same election. In 2017, New Hampshire first participated in the Interstate Voter Registration Crosscheck Program. Twenty-eight states exchanged data on registered voters and their history of voting in the November 8, 2016 general election. An interim report to the Ballot Law Commission on the initial findings of that data exchange are available at: <http://sos.nh.gov/2017-18BLC.aspx>

While it is yet to be determined whether unlawful voting in two states occurred at the November 8, 2016 election, a systematic process of comparing the history of who voted at a particular general election in participating states is in use.

ABSENTEE REGISTRATION FOR NON-UOCAVA VOTERS

A person desiring to register to vote who has a disability or is temporarily absent may register using a special Absentee Voter Affidavit Form and a Voter Registration Form, A.. This includes a person who is present following the last session for correcting the checklist, but who plans to be absent on election day. RSA 654:16. RSA 654:17.

An applicant for an absentee ballot who is not registered to vote shall be provided with the forms and instructions for absentee registration. RSA 657:16. This statute does not impose a deadline for providing absentee voter registration forms to applicants. Therefore, issue absentee voter registration applications until the day before an election.

RSA 654:8, II prohibits a clerk from accepting an in-person application for voter registration “after the last meeting

of the supervisors of the checklist before an election.” However, RSA 657:16 provides that for completed absentee voter registration applications, “All documents received after the deadline for correcting the checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under RSA 654:7-a.” Considered together, these statutes permit a person qualified to register to vote to request both an absentee ballot and an absentee voter registration form and supporting documents up until the day before an election. Both can be returned in person to the clerk’s office by the day before an election or by mail provided it is received by the clerk by 5:00 PM on election day.

An individual who is qualified to vote, who may have planned to register and vote in person on election day, but whose plans now will require the person to be absent on election day, may apply for registration using the absentee voter registration process either by mail or in person at the clerk’s office.

The clerk may not make final determinations regarding whether the proof of qualifications offered satisfy the requirements for voter registration. The applicant must provide copies of the proof offered. The clerk will provide the supervisors with the application and supporting documents on election day. The supervisors will review the application and copies of proof offered on election day and determine then whether the person qualifies to be added to the checklist.

All applicants for absentee registration are required to send copies of the documents that they rely on as proof of their qualifications as a voter. Therefore, use Voter Registration Form A, the one-sided form used for all other purposes

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only more than 30 days before an election for absentee registration. Because the absentee applicant is required by law to provide copies of documentary evidence of qualifications, the second side of Voter Registration Form B, which allows proof by swearing or affirming qualifications, is not available.

RSA 654:17 - Absentee Registration Affidavit
“That I hereby enclose one of the following as proof of identity and domicile:
(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows the name and address of the voter; or
(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;
5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved;”

Persons seeking to register absentee are not permitted to sign Qualified Voter Affidavits, they must provide copies of documentary evidence of their qualifications. Absentee applicants must sign affidavits affirming absence or disability in order to register absentee. RSA 654:17.

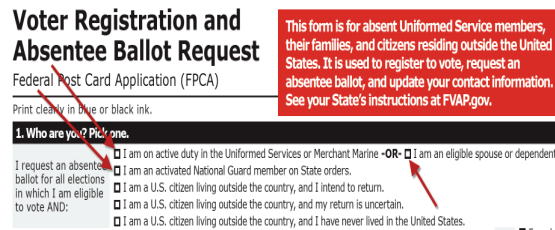
ABSENTEE REGISTRATION UNIFORMED AND OVERSEAS CITIZENS

There are three general categories of Uniformed and Overseas (UOCAVA) voters in State law: Refer to FPCA (page

210). Section 1 (Classification) and images below.

- (a) Uniformed services voters (members of all the active-service military branches, including the Merchant Marine and National Guard), and the spouses or dependents of any of the above. A uniformed services voter, **regardless of whether he or she has a domestic or foreign address**, has the right to vote in any election in the town or city **in which he or she had his or her domicile immediately prior to his or her entry into service.** RSA 654:3. See Federal Post Card Application form on page 210.

This “military service” category includes the 1st and 2nd lines on the FPCA form. The 2nd line applies to “activated National Guard member on state orders”.



- (b) Absent voters residing outside the United States. Any absent voter residing outside the U.S. borders and intending to return shall have the right to vote absentee in any election in the town or city in which he or she had his or her domicile immediately prior to his or her departure. RSA 654:3. See Federal Post Card Application form on page 210.

This “intend to return” category applies to the 3rd choice on the FPCA.

Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov.

Print clearly in blue or black ink.

1. Who are you? Pick one.

- I request an absentee ballot for all elections in which I am eligible to vote AND:
- I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent.
 - I am an activated National Guard member on State orders.
 - I am a U.S. citizen living outside the country, and I intend to return.
 - I am a U.S. citizen living outside the country, and my return is uncertain.
 - I am a U.S. citizen living outside the country, and I have never lived in the United States.

envelope from an unregistered UOCAVA individual, the clerk shall open and retain the envelope and copy and deliver the affidavit envelope and any other registration materials to the supervisors of the checklist. RSA 657:21. See FPCA form on page 210. Recommended procedure:

- If not registered, the clerk or supervisors should enter the voter record in *ElectioNet* as “Pending” approval.
- If registered, update any voter information in *ElectioNet* found on the FPCA form.

(c) Federal Office Only (FOO) voters: Any United States citizen residing outside the United States who does not intend to return. These voters, if they are otherwise qualified to vote, have a right to register absentee and vote absentee only in federal elections and only for federal offices (President, Senator, Member of Congress) in the town or city in New Hampshire in which they, or a parent or legal guardian (if they have never lived in the United States), had their domicile immediately prior to departing the United States. RSA 654:3. See Federal Post Card Application form on page 210.

This FOO category encompasses the 4th and 5th choice in the FPCA form.

Supervisors are required to indicate on the checklist if a Federal Office Only voter [voter residing outside the United States and does not intend to return] is entitled to vote for federal offices only. RSA 654:23. This is accomplished by entering the domicile address as “Overseas Citizen Federal Office Only.” Refer to *ElectioNet* FAQs.

MILITARY TERM - “HOME OF RECORD”

For voting purposes, the home of record is the town in which the person was domiciled when the person entered the armed services. Military documents may refer to the “home of record.” Such documents are good evidence that the town/ward listed is a valid voting domicile if the individual remains in military service.

BORN OUTSIDE THE U.S.

Any U.S. citizen who is 18 years of age, is domiciled outside the United States, has the right to vote for federal offices in the town or city in New Hampshire in which he or she, or a parent or legal guardian of said voter, had his or her domicile immediately prior to his or her departure from the U.S. RSA 654:3, III.

Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov.

Print clearly in blue or black ink.

1. Who are you? Pick one.

- I request an absentee ballot for all elections in which I am eligible to vote AND:
- I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent.
 - I am an activated National Guard member on State orders.
 - I am a U.S. citizen living outside the country, and I intend to return.
 - I am a U.S. citizen living outside the country, and my return is uncertain.
 - I am a U.S. citizen living outside the country, and I have never lived in the United States.

The Federal Post Card Application (FPCA), when signed, is a voter registration application form, and identifies the UOCAVA category of the voter. RSA 654:20. The town or city clerk shall forward a copy of all FPCA forms to the supervisors of the checklist. RSA 657:19-a. Upon receipt of a return

Hence, clerks may receive voter registration applications (often FPCAs) from individuals (whose parents or legal guardians once lived in their town) who themselves have never lived in the town or elsewhere in the United States and yet deserve to vote somewhere because they are U.S. Citizens. If a clerk can confirm their parents or legal guardians had their domicile in town immediately prior to their departure and the applicant has not lived elsewhere in the United States, they should be registered to vote.

The clerk needs to mark the absentee ballot affidavit envelope, the outer envelope the voter will use, and the absentee ballot application with the words “Not Registered” to ensure that, if the person returns the envelope, a determination can be made whether the person has submitted the documents necessary to become registered as a voter. RSA 657:16.

Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

Print clearly in blue or black ink.

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov.

1. Who are you? Pick one.

- I request an absentee ballot for all elections in which I am eligible to vote AND:
- I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent
 - I am an activated National Guard member on State orders.
 - I am a U.S. citizen living outside the country, and I intend to return.
 - I am a U.S. citizen living outside the country, and my return is uncertain.
 - I am a U.S. citizen living outside the country, and I have never lived in the United States.

UOCAVA ABSENTEE BALLOT APPLICATIONS

FPCAs are honored as absentee ballot applications applying to all elections held during the full calendar year in which they are received, except that FPCAs received in the calendar year prior to the year of the presidential election shall be honored through the presidential primary. RSA 657:19-a.

ABSENTEE BALLOT REQUEST – PERSON NOT REGISTERED

Upon receiving an absentee ballot request from an unregistered voter, a clerk is authorized by law to send the unregistered person a ballot, a written notice of what he or she needs to do to get registered and the forms necessary for the applicant to get registered. The instructions should clearly indicate that the voter registration form and any supporting documents should be put in the outer envelope, not in the affidavit envelope, when returned to the clerk.

At the polls on election day, if an outer envelope is returned without the forms and documents necessary to complete the voter’s registration, the inner affidavit envelope should be opened to determine if it contains the documents necessary for registration. The ballot should not be removed from the envelope and should remain folded. If the envelope does not contain the missing registration forms or documents, the envelope should be immediately sealed with staples or tape, with the unexamined ballot still inside. The clerk should write a short explanation on the envelope. The envelope is then treated in the same manner as a rejected absentee ballot envelope. RSA 654:13; RSA 657:26. .

INFORMATION TO CLERK

While the clerk will, in most cases, use *ElectioNet*, the supervisors of the checklist shall furnish the town or city clerk, upon his or her request, the information the clerk needs to determine the proper ballot to be sent to an absentee voter. RSA 657:14. Retain all voter registration forms and other records relating to voter registration securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. File any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place at the office of the town or city clerk within 10 days of the

meeting or election at which it was submitted. RSA 654:13-a

CHECKLIST STANDARDS

Supervisors must main completed registration forms and checklists in alphabetical order, both of which must be updated after each election. Senate Bill 320 (2018), effective July 24, 2018, amended RSA 654:25, authorizing the Secretary of State’s checklist guidelines to include the content of the checklist and providing that the elements of the checklist set forth in the statute are a minimum. .

TIMELY ENTRY OF NEW VOTERS AND CHANGES

To avoid confusion, supervisors of the checklist are responsible to ensure that new voters are entered into *ElectioNet* in a timely manner, and to approve pending removals and pending approvals before providing copies of the checklist to the public. If it is necessary to provide an uncorrected checklist to satisfy the requirement of the Right-to-Know law that a public record that is immediately available must be provided immediately, the recipient should be advised in writing that there are pending corrections to the checklist. RSA 91-A:4.

CONFIDENTIAL VOTERS

The name and address of a voter shall not appear on the checklist at the request of the voter if he or she presents to the supervisors of the checklist a valid protective order pursuant to RSA 173-B:4, or if he or she is a confidential voter under RSA 7:46. The name, domicile address, and mailing address, if different, of such a voter shall be maintained on a separate list of voters, which shall be non-public and not subject to the Right-to-Know law, RSA Chapter 91-A. If it is necessary to establish such a non-public

list, the public checklist shall be marked at the end with a notation of the number of voters whose names are maintained on the non-public list. RSA 654:25.

Clerks must send confidential voters an absentee ballot automatically. “The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual is domiciled in the same manner as absentee voters pursuant to RSA 657:15.” RSA 7:46.

REMOVAL OF VOTERS

The supervisors have a legal duty to keep the checklist as accurate as is practical. RSA 654:28; RSA 654:43. In fulfilling this duty, supervisors must be mindful that in the United States there are in some cases two or more people who have the same name and date-of-birth. When no middle name or only a middle initial is available, identical names and dates-of-birth are even more common, where in fact the records relate to two different people. The law generally requires supervisors send a 30-day letter to a voter and that either the voter affirms that he or she has permanently moved his or her domicile or that the voter fails to respond to the letter before the voter can be removed. The exceptions, Notices of Transfer, notices of a permanent change of address with the United States Postal Service or the Division of Motor Vehicles, or death notices permit removal without a 30-day letter because each exception has additional information that ties the event to your voter.

NOTICE OF TRANSFER

A Notice of Transfer is a communication received from an election official that seeks to inform the supervisors of the checklist in a New Hampshire municipality that a person currently registered in their town or ward has

Duties of Supervisors of the Checklist

registered to vote in a new jurisdiction. In effect, the voter transfers his or her registration to a different jurisdiction. The purpose of a Notice of Transfer is to notify the town or ward where the person previously registered that the person should be removed from the checklist.

Notices of Transfer come in many forms. Ideally, they include a photocopy of the voter's handwritten application to register in the new jurisdiction showing that the voter wrote in their previous New Hampshire address as the place where he or she was previously registered to vote. However, often we will receive only a summary list with just names and dates of birth of people who have registered in a new state. This qualifies as a Notice of Transfer only if the list or a cover letter explicitly states that the New Hampshire address was provided by the voter or it is otherwise established that the voter provided their prior New Hampshire address.

To qualify as a Notice of Transfer which authorizes removal of a voter's name from the checklist, without first sending a 30-day letter, a communication must contain:

1. The full name of the voter;
 - a. Middle initial data should be consistent, any of the following are OK:
 - i. Middle name/initial listed is an exact match;
 - ii. No middle name on either the notice or our record;
 - iii. Full middle name in one record, matching initial in the other;
 - b. If middle name data is inconsistent, do not treat the document as a Notice of Transfer;
2. The voter's date-of-birth;

3. The voter's address where previously registered in your town or ward:

- a. The address need not be a precise match, but must be close enough to the address in the voter's most recent New Hampshire registration that no doubt exists that the NH voter and the person who is the subject of the notice are the same person;

4. The person/office that sent the notice must be a clearly identified election official/office:

- a. Typically, the list, cover letter, or e-mail will contain the title, office, and contact information of an out-of-state election official.
- b. A list of voters with no cover letter or clearly identified election official who sent the information does not qualify as a Notice of Transfer.

5. A clear statement that the address where the voter was previously registered was obtained from the voter. The following satisfy this requirement:

- a. A copy of a voter registration form signed by the voter where the voter filled in the address on the line for place last registered/voting;
- b. A copy of a document signed by the voter verifying his or her voting domicile in the town/ward where he or she currently is domiciled, that also lists your New Hampshire town/ward as a previous voting domicile. Some jurisdictions send such documents to voters who appear on the interstate cross-check and if the voter signs and returns the letter, the out-of-state election officials send New Hampshire a copy;

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c. An explicit statement that the out-of-state election office was provided the New Hampshire address by the voter;

d. A record of contacting the out-of-state election official who sent the communication confirming that the voter's domicile address in New Hampshire came from the voter. This can be either voter specific or a general representation by that office that any notice sent listing a voter's previous NH address contains only addresses provided by the voter.

e. It is evidence supporting the conclusion that a communication is a Notice of Transfer when it is received from a state that did not participate in the Interstate Crosscheck program in 2017.

Once the supervisors receive a valid Notice of Transfer, RSA 654:36 provides: "If the supervisors of the checklist have received a notice of transfer from any other state or from another board of supervisors of the checklist in the state of New Hampshire through the statewide centralized voter registration database that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. They shall retain the notice in accordance with RSA 33-A:3-a as proof of their reasoning in striking the name from the checklist." RSA 654:36; RSA 654:37; RSA 654:44.

A Report of Change of Address is a report communicated to the supervisors of the checklist from one of three entities: the United States Postal Service, the New Hampshire Department of Safety, Division of Motor Vehicles, or the New Hampshire Secretary of State (generally for the USPS or DMV as communicated

through the centralized voter registration database). Once the supervisors receive a Report of Change of Address in which the "voter has permanently changed his or her address to another town, city, or state they shall strike that name from the checklist at the next session for the correction of the checklist." RSA 654:36-b. "As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice as set forth in RSA 654:44." RSA 654:36-b.

A United States Postal Service temporary mail forwarding order is not cause for removal from the checklist. A domicile for voting purposes, is not lost because a voter is temporarily absent from his or her home. RSA 654:2. Prior to removing a voter from the checklist, the supervisors, with the limited exceptions discussed in this section, must send written notice by mail at least 30 days in advance of the meeting where removal will be decided. RSA 654:44. The decision to send a voter a 30-day letter itself must be made by a majority vote of the supervisors of the checklist in a properly noticed public meeting. This requirement does not prevent individual supervisors or support staff from preparing *ElectioNet* for a letter to be sent, nor from that work being done in non-public work sessions. It is only the evaluation of the evidence in hand that supports sending a 30-day letter and the vote by the supervisors that must occur at a formal meeting of the board.

Mail sent to a voter at the mailing address the voter last provided which is returned by the United States Postal Service indicating that the person has moved should trigger removal of the person's name from the checklist. If the supervisors have reason to believe the notice is in error, then a 30-day letter

should be sent to the voter before removal of the voter's name from the checklist.

REMOVAL OF DECEASED VOTERS

The supervisors should remove the name of any person for whom they have received an official notice of death. While RSA 654:37 does not define "an official notice of death," supervisors should consider such an **official notice** to be:

- a) copy of a death certificate,
- b) burial permit, or
- c) NHVRIN Matched Death Records in *ElectioNet*.

While the following are not official notices, supervisors should treat them as follow-up triggers:

- obituary
- word of mouth

When supervisors notice these triggers, they should follow up with these questions to the clerk:

- Have you seen a burial permit?
- Have you seen a death certificate?

Supervisors should routinely review their *ElectioNet* reminders screen. If the "NHVRIN Matched Death Records" reminder is bold and states that there are matched death records needing examination, these records should be reviewed. A single supervisor or assigned support staff may conduct the initial review. Use *ElectioNet* to compare the NHVRIN record with the SVRS (*ElectioNet*) record. If it is more likely than not that the two records pertain to the same person, use the "match" button to move the voter to pending removal. If it is more likely than not that these are two different people, use the "Not a Match"

button to remove the voter from the match list.

As with all decisions regarding removing a voter from the checklist, exercise caution to ensure the individual who died is the same person as the voter. Extra caution is warranted when your checklist has two voters with the same name. A common example will be a father and son.

A vote of a majority of the board of supervisors at a properly noticed public session is required to approve the pending removal and actually remove the voter from the checklist. Death removals should be carefully reviewed at the session as the supervisors who did not make the initial review may have knowledge that either confirms that the voter is the person who died or that removal is an error as the deceased is a different person.

DEATH RECORDS REVIEW

A NHVRIN Matched Death Records review should be done on the day before every election. If the review results in the pending removal due to death of any voter, the pending removal list should be printed and brought to the polling place for review and action by the full board of supervisors.

Upon reviewing and acting to remove a deceased voter on the day of an election, the supervisors should note on all copies of the official checklist that the voter is "deceased" and then place the supervisor's initials next to the voter's name.

"Whenever there is filed in the office of the clerk an official notice of the death of any person or persons of the age 18 years or over or the clerk receives notice of a death record of such person or persons under RSA 5-C:4, V, the town or city clerk

shall notify the supervisors of the checklist of said deaths....” RSA 654:37.

“The Secretary of State shall compare information contained on each death record received by the division of vital records with information contained in the statewide centralized voter registration database and submit to the state registrar a list of every city or town that has a registered voter matching the decedent’s information.

V. Upon receipt of a death record, the state registrar shall transmit notice of the death to the clerk of the city or town of residence of the decedent and to each city or town listed by the Secretary of State for the decedent pursuant to paragraph IV.” RSA 5-C:4.

There is sometimes a lag between a voter’s death and the town’s receipt of an official notice of death. Therefore, immediately prior to election day and to the extent practical on election day, the supervisors should review local obituaries and other unofficial sources of notices of death. If a voter is identified as having passed away, the supervisors should work with the moderator to flag that voter’s name on the checklist with “notify moderator.” The moderator should instruct the ballot clerks to notify the moderator if anyone checks in using that voter’s name seeking to obtain a ballot. If someone seeks to vote using that name the moderator should sort out whether the unofficial information on death was in error or if impersonation voter fraud is being attempted. This practice does not substitute for the requirement that you must have an official notice to formally remove the voter from the checklist.

The supervisors should remove the name of any person who relinquished his or her

U.S. citizenship. Relinquishment of citizenship is very rare.

PARTY AFFILIATION CHANGES

A voter may change his or her party affiliation any time the supervisors are in session, except between the first day of the filing period for a primary up to the day of the primary election. The board of supervisors must hold at least one meeting prior to the filing period for the change of registration of legal voters. RSA 654:34.

A voter may also apply to the clerk, during the clerk’s usual office hours, to change party affiliation. Any application for party change submitted between the first Wednesday in June and the day before the state primary election shall be delivered to the supervisors, who shall hold the application and make the change following primary election day. RSA 654:34-a. An application to change party submitted to the clerk on or after the first Wednesday in June will **not** change the voter’s party affiliation at the primary held in September. The same restriction on changing party affiliation applies between the start of the filing period and the presidential primary.

CHECKLIST CHANGE OF ADDRESS

If a voter has changed their address on the checklist indicating they have moved within their community, the supervisors of the checklist must note the change of address on the person’s voter registration form and enter it in *ElectioNet*. RSA 659:13.

SESSIONS OF SUPERVISORS

ELECTION DAY REGISTRATION

Any person may register to vote with the supervisors of the checklist at any election (i.e., primary and general elections, town, city, school district and village district elections). Applicants must meet all the

qualifications required by RSA 654:12, as judged by the supervisors. RSA 654:7-a. Best practice is to provide an opportunity for voters to register in advance of or at an annual village district meeting that elects officers by unofficial ballot or from the floor.

For the purposes of this section "election" refers to any voting at which absentee ballots are provided. "Meeting" refers to the deliberative session of the town, school, or village district.

STATE ELECTIONS

The supervisors are required to hold one session prior to any state election (state primary, presidential primary, or general election). The session must be held 6 - 13 days before the election. This session must be held for no less than 30 minutes and, at the discretion of the supervisors, may be extended for additional hours. Except for the provisions relative to election day registration, no additions or corrections may be made to the checklist after that session is over. RSA 654:27.

PRESIDENTIAL PRIMARY ELECTIONS

In addition to election day registration and the session required above, the supervisors must also hold one session for additions and corrections to the checklist prior to the start of the filing period for state offices or the presidential primary. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period between 7:00 p.m. and 7:30 p.m. The Secretary of State determines and will announce the dates of the filing period for the Presidential Primary. RSA 653:9; RSA 655:47.

STATE PRIMARY ELECTIONS

Before the state primary election, the session must be on the Tuesday before the first Wednesday in June (that is, the day before the filing period opens) between 7:00 p.m. and 7:30 p.m. At any session the supervisors may extend the session to end at a later time. RSA 654:32; RSA 655:47, II.

LOCAL ELECTIONS

For all town, city, village district and school district elections, supervisors must hold a session on Saturday 6 – 13 days prior to the election and shall also hold one session on the day immediately prior to the first day of the filing period. In towns operating under RSA 40:13, known as the SB2 form of annual meeting, the supervisors' session shall be held on the Saturday 6 - 13 days prior to the deliberative session. Supervisors must register voters on election day of local elections. RSA 669:5; RSA 44:5; RSA 670:3.

NO RESTRICTIONS ON OTHER SESSIONS

Supervisors should hold as many meetings as necessary to allow citizens in the community an opportunity to register or change party affiliation. In addition to the required sessions, supervisors may meet at any time prior to the final pre-election session required by law, as long as they post or publish notice of the meeting. RSA 91-A; RSA 654:27; RSA 654:32. No additions, removals, or corrections to the checklist shall be made after the closure of your city or town's final session for correction of the checklist. RSA 654:27; RSA 654:28; RSA 659:12; RSA 669:5. Qualified individuals may register on election day.

Supervisors should meet and resolve pending additions and pending removals – which appear in System Reminders of *ElectionNet*.

The board of supervisors of the Checklist are a public body subject to New Hampshire's Right-to-Know law. RSA Chapter 91-A. Whenever a quorum convenes for the purpose of discussing or acting on adding a voter, removing a voter, or sending 30-day letters to voters, these actions must be taken in a properly noticed public meeting. A quorum is two or more members of a three person Board. RSA 91-A:2 Minutes of the meeting must be taken and made available to the public on request. HB 1347 (2018), effective January 1, 2019, amends RSA 91-A:2, II, to require that minutes contain "The names of the members who made or seconded each motion." RSA 91-A:2, II. *ElectioNet* provides a report that to use for this purpose. The Attorney General's Memorandum on the Right-to-Know law is an excellent guide. <https://www.doj.nh.gov/civil/documents/right-to-know.pdf> The document is also available on *ElectioNet*.

CONSOLIDATING SESSIONS

Whenever there is more than one required session within a 21-day period, the first required session may serve to fulfill the requirements of the remaining sessions. *Example:* Multiple state and municipal elections within a short period. RSA 654:27.

POSTING CHECKLISTS

No later than the 4th Tuesday before any state election, the supervisors shall post a current checklist at the town or city clerk's office or at town hall. At least 10 days prior to a session for alteration of party affiliation before a primary, the supervisors shall post a current checklist at the clerk's office or at town hall. To save paper and ink, this list may be in the form of an "Alpha List" from *ElectioNet* with a separate certification page signed and attached. Each posted checklist shall state the date, hour, and place of the

upcoming session for checklist additions or corrections. RSA 654:26; RSA 654:27; RSA 654:33. On each posted checklist, the board of supervisors shall subscribe an oath as required by RSA 654:29.

The official checklist used at any election shall contain the full name, domicile address, mailing address, and party affiliation, if any, of each voter on the checklist. Senate Bill 320 (2018), effective July 24, 2018, amended RSA 654:25, authorizing the Secretary of State's checklist guidelines to include the content of the checklist and providing that the elements of the checklist set forth in the statute are a minimum. RSA 654:25.

ADDITIONS TO POSTED CHECKLISTS

Except for the additions made on election day, any changes shall be made to the previously posted checklist on or before midnight on the succeeding Friday (following Friday – see the New Hampshire Political Calendar). Notice shall also be given to the town or city clerk. RSA 654:28; RSA 654:29. Supervisors may also print, certify, and post an updated checklist to fulfill this requirement.

THE VOTER REGISTRATION FORM

The supervisors should make sure they have a sufficient supply of Voter Registration Forms for themselves and the city or town clerk.

For applicants applying more than 30 days before an election, use Voter Registration Form A, which is one side of one page.

For applicants applying starting 30 days before an election and on election day, use Voter Registration Form B, which is two sided. For applicants who do not have proof of a qualification with them, the second side of Form B has a top section

for proof of domicile and a bottom section for proof of identity, citizenship, and age. If the applicant uses either the top domicile section and/or the bottom qualified voter (identity, citizenship, or age) section, the election official receiving the applicant's oath or affirmation must sign the "sworn before" section on the lower right of the second side. Form A, Form B, and the Verifiable Action of Domicile Form A and Form B may be found in *ElectioNet* under Help/Instructions. The forms are also included in this manual at pages 218 to 220. RSA 654:7.

CERTIFYING NOMINATION PAPERS

Individuals seeking to be placed on the general election ballot as a candidate who is not nominated by a political party may use nomination papers. Completed nomination papers for third party candidates must be submitted for certification to the supervisors in the community in which the voter is registered no later than 5 p.m. on the Wednesday 5 weeks prior to the State Primary Election. Nomination papers shall be signed and dated in the year of the election. RSA 655:40; RSA 655:40-a; RSA 655:41.

The supervisors are required to verify that the person signing the nomination is a registered voter in their town/ward. The supervisors must have the certified nomination papers available for the candidate no later than 5 p.m. on the Wednesday 2 weeks prior to the primary. RSA 655:41-3. They should provide notice of such meetings in a manner consistent with RSA 91-A, which requires that at least two public notices be placed 24 hours prior to the meeting. City clerks may perform the responsibilities of the supervisors of the checklist relating to certification of petitions. RSA 655:41, II.

CHECKLISTS FOR ADDITIONAL POLLING PLACES

The supervisors must prepare a list of the voters entitled to vote in the additional polling place and no later than 14 days prior to the election they must post a copy at the town or city clerk's office or at the town hall. They must also give the town clerk 2 copies of that checklist. RSA 658:12. Supervisors can assign voting districts in *ElectioNet* and print the required checklists using the system.

PROVIDING THE CHECKLIST TO THE PUBLIC

The supervisors are required to provide copies of the checklist to those who request it. Supervisors are urged to address all pending items that appear in System Reminders of *ElectioNet* prior to providing copies of the checklist. However, the Right-to-Know law requires that a public record that is immediately available be provided immediately. A person making a request for a copy of the checklist in person should not be denied because there are pending changes, but they should be informed that the checklist they are receiving is not current. A request received by mail should not be unreasonably delayed while corrections are made.

The supervisors may only provide checklist information for their own town or city. The supervisors shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs.

The information on the checklist that supervisors of the checklist may provide upon payment, includes the voter's name, street address, mailing address, town or

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city, voter history for an election (including whether or not they voted absentee), and party affiliation, if any, of every registered voter in the town or city ward. Date (or any date range) of a voter's registration is not public information. New Hampshire Constitution, Part 1, Article 8; RSA 654:25; RSA 654:31; RSA 654:31-a; RSA 654:45; RSA 659:13; RSA 659:102.

The supervisors of the checklist may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form. RSA 654:31, II. Refer to *ElectioNet* under Help/Instructions/Voter Information - Public or Private. Generally, provide public records in the form the person requests, when doing so is reasonably practical. *Green v. School Administrative Unit #55*, 168 N.H. 796, (N.H. 2016).

Upon request, the Secretary of State shall provide a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the state to a political party, political committee, or candidate for county, state, or federal office. In addition, upon request, the Secretary of State shall provide a candidate for county, state, or federal office a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the candidate's district. The Secretary of State shall charge a fee of \$25 plus \$.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges. The Secretary of State must charge and collect on behalf of the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist been purchased from them. The Secretary of State shall remit to the city or town the

amount collected on its behalf. RSA 654:31, IV.

It is a crime to knowingly use the checklist information for commercial purposes such as selling or offering for sale any property or service unrelated to an election or political campaign. RSA 654:31. Copies of the checklist should be sold to charitable non-profit corporations that request them.

Except for fees collected on behalf of a city or town, any fees the Secretary of State receives are to be deposited into the election fund that is used for election related purposes such as voter and election official education. RSA 654:31, VI.

The non-public checklist, that is the list of voters who are under protective orders pursuant to RSA 173-B:4 or who are confidential voters under RSA 7:46, may not be provided to anyone, other than law enforcement, without a court order.

ELECTION DAY DUTIES

ATTENDANCE AT ELECTION

Supervisors shall be present at the opening of each election at which a checklist is to be used and shall remain in attendance until the close of the election. RSA 659:10.

REMOVE DECEASED VOTERS PRIOR TO OPENING POLLS TO VOTING

Supervisors are in public session on election day. Prior to the opening of the polls, they should review and, at the opening of the polls, act on any NHVRIN death notices appearing on the reminders screen, manually noting on all copies of the checklist that a voter has been removed and placing their initials next to the voter's name.

Immediately prior to election day and to the extent practical on election day, the supervisors should review local obituaries and other unofficial sources of notices of death. If a voter is identified as having passed away, the supervisors should work with the moderator to flag that voter's name on the checklist with "notify moderator." The moderator should instruct the ballot clerks to notify the moderator if anyone checks in seeking to obtain a ballot using that voter's name. If someone seeks to vote using that name the moderator should sort out whether the unofficial information on death was in error or if impersonation voter fraud is being attempted.

PRIMARY ELECTION DAY PARTY CHANGES

Undeclared voters may, after declaring a party and voting in a primary, sign the list of undeclared voters created in *ElectioNet* which is provided at the polls to return to undeclared status on election day. If a voter registered undeclared on election day, he or she can sign the Return to Undeclared form or list (pages 266 & 267.) The Return to Undeclared list shall be retained by the board of supervisors. RSA 654:34, II.

No person who is already registered to vote, whether his or her party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in June and the day before the state primary election. RSA 654:34, IV.

Voters who have declared an affiliation must change their affiliation before the first Wednesday in June or they are limited to voting in the primary of the party with whom they are affiliated on primary day. A declared voter may change his or her affiliation on primary day, but then he or

she may not vote in that primary. RSA 654:34.

ELECTRONIC POLL BOOKS TRIALS

New Law – RSA 652:27. Cities and towns may conduct a trial of electronic poll books for voter registration and check in at a local election. The trial must follow the requirements issued by the Secretary of State. See further information at: <http://sos.nh.gov/epoll.aspx>

ELECTION DAY REGISTRATION

Any person qualified as a voter may register to vote with the supervisors on election day at any election. RSA 654:12

Any unregistered person who wishes to vote in any election shall proceed directly to the supervisors of the checklist to register in the polling place. Individuals must be 18 years of age or older and must present proof of identity, age, domicile, and citizenship or complete the pertinent sections of the second side of Voter Registration Form B, used starting 30 days before election day and on election day.

PROCEDURE

(1) Applicant for registration goes to the supervisors of the checklist. Supervisors check to ensure the individual is not already registered and on the checklist.

(2) If the individual is already registered to vote, but is not in the correct voting place, the supervisor will direct the individual to the correct town or ward.

(3) Applicant presents proof of qualification as a voter for that polling place

(4) Either the individual or supervisor fills out a voter registration form by printing legibly, with the voter signing the bottom of the registration form. RSA 654:12. Use

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the Voter Registration Form B, used starting 30 days before an election and on election day.

(5) If the applicant does not have proof of identity, age, citizenship, or domicile with them, he or she may satisfy proof of one or more of these qualifications by swearing to or affirming the qualification using the second side of form B.

The top section of Form B is used to prove domicile only if the applicant does not bring proof with them. The applicant initials the top option if he or she has documentary evidence of having acted to carry out an intent to establish domicile and will mail or deliver the proof to the clerk following the election. Give these applicants the Verifiable Action of Domicile form B. This form is in effect instructions on getting proof to the clerk after the election.

Applicants who are not aware of possessing any documentary evidence of having acted to carry out his or her intent to establish domicile initial the bottom domicile option. Do not give these applicants the Verifiable Action of Domicile Form B; these applicants have no duty to provide proof after the election.

The applicant must then sign and date the form. If the applicant does not have documentary evidence of identity, age, or citizenship with them, he or she must complete the qualified voter affidavit section on the bottom section on the second side of form B.

For an applicant who does not have photo identification, register the applicant based on the affidavit. If the moderator, clerk or a supervisor do not verify the person's identity, the applicant will complete a challenged voter affidavit and have a

photo taken after registering and before obtaining a ballot.

If the applicant uses any part of the second side of form B, the supervisor must witness the voter's swearing or affirming their qualifications by signing the "sworn before" section on the lower right side of the second side of form B. (found in *Electionet* under Help/Instructions).

As a general practice, supervisors should **only accept** voter registration affidavits if they have been signed **in their presence at their request**. This will help the state avoid mailing follow-up letters to those voters whose affidavits were not necessary for voter registration.

(6) Once the registration form is completed, the supervisor directs the voter to the ballot clerk, ensures the name, address, and party affiliation of the voter gets written on the checklist, and notifies the ballot clerks that the individual is now a registered voter. Larger towns and cities may want to adopt a form to be signed by the supervisor that the newly registered voter can carry to the ballot clerk as evidence that he or she is registered. See sample New Voter Authorization Form on page 215.

(7) If, while registering, the voter did not present a photo ID acceptable for obtaining a ballot, the supervisors may direct the voter to the appropriate station to complete a Challenged Voter Affidavit and have their photo taken prior to getting in the voter check-in line.

CHALLENGES OF VOTERS

Challenges to a voter's eligibility cannot be made at the voter registration table or directly to the supervisors. A challenge to the identity, age, citizenship, or domicile of a voter is made to the moderator. The moderator will bring challenges based on age, citizenship, or domicile regarding an in person or absentee voter to the supervisors. The supervisors of the checklist must, using an "Asserting a Challenge" form, rule whether the challenged voter is qualified or not qualified. RSA 659:27; RSA 659:27-a; RSA 659:30; RSA 659:31; RSA 659:32.

The moderator decides challenges on other grounds, such as a claim that the voter has already voted in the election.

If the election officials decide that the challenge is valid, that the voter is not qualified, they should educate the voter as to where he or she should be voting or why he or she is not eligible to vote in New Hampshire. A voter whose name is on the checklist may, nonetheless, vote if the voter completes the Challenged Voter Affidavit.

If election officials believe that a voter who is challenged and signs a Challenged Voter Affidavit is nonetheless voting wrongfully, this should be reported to the Attorney General's Office.

CERTIFYING THE CHECKLIST

Before the election, the supervisors must certify that the corrected checklist according to their best knowledge contains (*fill in number*) of names of those persons, "who are by actual domicile legal voters" in the town or ward. RSA 654:29. Provide two certified copies to the clerk. The clerk and moderator must use those certified copies as the checklist for the election. Only one certified checklist is

used at polling places where a ballot counting device is used.

After closing of the polls to voting the moderator and the clerk must certify the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56.

POST-ELECTION DAY DUTIES

PRESERVATION OF CHECKLIST AFTER THE ELECTION

Within 90 days after the closing of the polls for each regular state general election and each presidential primary election, one marked copy of the check-in checklist used at the election must be forwarded by the supervisors to the State Archives in Concord: State Archives, 9 Ratification Way, Concord, New Hampshire 03301-2410. Please note that this law does not apply to the state primary. RSA 659:102.

After every election, a marked copy of the checklist must be preserved by the town or city clerk as a public record, for a period of at least 7 years. RSA 33-A:3-a; RSA 659:102.

CORRECTING DATA FILES AND ENTERING INFORMATION FOR STATE FOLLOW-UP LETTERS

After each state election the supervisors shall use the checklist from such election to correct the data in the records of registered voters in *ElectioNet*. Supervisors must start by entering voters who registered on election day into *ElectioNet* first, indicating if they:

- Used the second side of Voter Registration Form B to prove their domicile (found in *ElectioNet* under Help/Instructions). and/or;
- Used a Qualified Voter Affidavit (page 199) for purposes of identity under “Form of ID – Proof of Identity”.

Supervisors should begin the barcode scanning process by scanning in the voter history of those who voted after signing a Challenged Voter Affidavit (page 200). The clerk should make available to the supervisors the completed Challenged Voter Affidavits from election day to enable the supervisors to verify that if a challenged voter affidavit was used the “CVA” box on the checklist has been marked. After this work has been completed, the supervisors should finish scanning the barcodes of all other voters who received a ballot on election day. The Challenged Voter Affidavits must then be returned to the clerk. RSA 654:12; RSA 654:30.

POST-ELECTION REVIEW OF VOTERS WHO SIGN A CHALLENGED VOTER AFFIDAVIT

The law which requires the Secretary of State to send a letter to certain voters who use a challenged voter affidavit because the voter did not have photo identification was amended to add additional responsibilities.

New Law – RSA 659:13, IV(b). “The secretary of state shall conduct an inquiry regarding any letters mailed pursuant to subparagraph (a) that are returned as undeliverable by the United States Post Office and of voters who were mailed letters under subparagraph (a) and have not responded to the Secretary of State. The inquiry may include consulting with, and examining public records held by, municipal officials, which contain

information relevant to a person’s qualifications to vote in New Hampshire, and interviewing persons living at the address listed on the letters. After such inquiry, the Secretary of State shall prepare and forward to the attorney general for investigation a list of those people whose identity or eligibility to vote could not be confirmed. The attorney general shall cause an investigation to be made to determine whether fraudulent voting occurred.”

The Secretary of State will provide the supervisors of the checklist with a list of voters who signed challenged voter affidavits (CVAs) in order to obtain a ballot and did not respond to the Secretary of State’s follow-up letter. The Secretary of State will ask the supervisors of the checklist to provide any relevant input regarding the identity of voters listed as signing a CVA. In some cases, the Secretary of State will request a copy of the voter’s voter registration form and any affidavits the voter signed. These documents, in particular the voter’s signature, are helpful to the Secretary of State and Attorney General in resolving the validity of the voter.

RETENTION OF VOTER REGISTRATION FORMS

New Law – RSA 654:13-a. All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk. THOSE forms and records shall be readily accessible to the supervisors of the checklist. Any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place shall be filed at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted.

INTERSTATE CROSS-CHECK

Laws 2016. 175:2. "Pursuant to the authority in RSA 654:45, VIII, the Secretary of State may enter into the agreements necessary for the state of New Hampshire to participate in the Interstate Voter Registration Crosscheck Program. The Secretary of State shall review the data resulting from its participation in the Interstate Voter Registration Crosscheck Program and forward any voter irregularities identified to the attorney general."

When matching names and dates of birth are found as a result of this program, and other information is obtained that makes it reasonably certain the two matched voters are the same person, the HAVA staff will follow-up with local election officials so that they can send 30-day letters.

A voter's date-of-birth and full middle name are valuable in any effort to compare voter registration records in two different jurisdictions. Cases exist where two different people in the United States have the same name and date-of-birth. Supervisors should use legal means to obtain and enter voters' missing dates of birth and full middle names, either from existing voter registration files or by asking the voter to provide the information voluntarily.

RECORDING USE OF OUT-OF-STATE ID

When a voter obtains a ballot with either an out-of-state driver's license or identification card, the ballot clerk shall record the state of issuance on the checklist. Within 30 days of the election, a supervisor of the checklist, or someone designated by the supervisors, shall record the state of issuance of a voter's driver's

license or identification card in *ElectioNet*. RSA 659:13, I(b).

YEAR-ROUND REMOVAL OF NAMES FROM THE CHECKLIST

The supervisors shall send notices by mail to the last known addresses of the persons whose names are being considered for removal, stating the reason for removal. Such notices shall also state the time and place at which the board of supervisors shall meet to consider the removal of that person's name. The date shall be at least 30 days after the supervisors send notice. RSA 654:38; RSA 654:39.

Supervisors of the checklist are obligated to identify the physical address of each voter and ensure that it is in the jurisdiction in which the voter is registered.

When supervisors have reason to believe a voter has moved out of the jurisdiction, the following represent justifiable reasons for sending a 30-day letter:

- (a) A voter appears to be living in a single family home which others have moved into and registered to vote.
- (b) Supervisors have heard from a reliable source that the voter has moved out of town.
- (c) Supervisors cannot identify a physical address for the voter.
- (d) Mail has been sent by the town/city, the clerk, or the supervisors to the voter at the mailing address in the voter's voter registration record and it has been returned by the United States Post Office as undeliverable.
- (e) A notice of transfer, notice of address change, or USPS national change of address permanent address change has been received in circumstances where it is more

likely than not about the voter, but not reasonably certain that the notice pertains to the voter.

The person whose name is being considered for removal shall have a chance, either in person or in writing by mail or messenger, to give the reasons why his or her name should be left on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of such person's written or oral statement, if they elect to make one. The supervisors shall keep records as proof of compliance with the notice requirement. RSA 654:44.

REPORTS OF TRANSFER

If the supervisors receive notice of a transfer from another board of supervisors, they shall remove that name from the checklist at the next session for the correction of the checklist. The notice shall be retained for at least one year as proof of removal of that name. When the voter registers in another New Hampshire town or ward, this information is maintained automatically in *ElectioNet*. RSA 654:36. It is helpful for clerks in larger towns and cities that have multiple wards if the clerk of the new residence indicates the voter's previous street address on the voter registration form. See further guidance on notices of transfer at page 133

NOTICE OF PERMANENT CHANGE OF ADDRESS

Supervisors shall also either remove a person's name from the checklist or send the person a 30 day notice letter if notice is received from the United States Post Office, the Department of Safety, directly or through *ElectioNet* that the person has permanently moved from the town or ward where he or she is registered to vote. RSA 654:36-b provides:

“If the supervisors of the checklist receive a report from the United States Postal Service or the (N.H.) department of safety directly or as communicated by the Secretary of State through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist... As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice,..”

NATIONAL VOTER REGISTRATION ACT

With the implementation of the National Voter Registration Act (motor voter law), town and city clerks are receiving notices of transfer from several states. If a person is a resident of another State has signed a voter application in that State, and the report of transfer is received, the supervisors are authorized to remove that name from the checklist.

If the individual did not intend to have his or her name removed from the New Hampshire checklist, he or she may reapply and sign a new voter application upon his or her return to New Hampshire. A person may have only one voting domicile and therefore should only be registered to vote in one town or ward. However, as the law does not require a voter to notify election officials when he or she permanently moves, it is not a violation by the voter when his or her name is found on the checklist in two different towns, cities, or states. It is the responsibility of election officials to work together to sort out where it is more likely than not that the voter is currently domiciled. In many cases federal and state law require election officials to confirm

the permanent move with the voter before removing him or her from the checklist.

VERIFICATION OF CHECKLIST

The supervisors of the checklist shall verify the checklist:

- On petition of 50 registered voters or 5% of the registered voters, whichever is less, subject to approval after a public hearing by the Ballot Law Commission.
- On petition of a majority of the board of supervisors filed with the Secretary of State no later than the eighth Friday after a state election, subject to approval after a public hearing by the Ballot Law Commission.
- In 2021 and once every ten years thereafter.

The procedure for verification of the checklist is further described in RSA 654:38. RSA 654:39.

REQUEST TO CORRECT THE CHECKLIST

Any person can at any time submit an application for correction of the checklist to the supervisors for their consideration at their next meeting. This, in effect, allows anyone who believes another person who is not qualified as a voter in the town or ward is on the checklist to report this to the supervisors. The supervisors should investigate and if they determine it is warranted, send a 30-day letter, notice of removal to the person. This will require the person to affirm his or her qualifications as a voter. RSA 654:36-a; RSA 654:28.

RSA 654:36-a establishes the following procedure for processing a request to correct the checklist:

I. A supervisor of the checklist, the town or city clerk, or any other person, may

submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person’s qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person’s qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person’s name shall be removed from the checklist.” RSA 654:36-a.

This law requires that a request to remove a person from the checklist must be based on evidence. The supervisors of the checklist must evaluate whether, if true, the information provided in the request would make the person listed in the request disqualified as a voter in the town or ward.

The supervisors must determine if the evidence provided constitutes reasonable evidence. For example, a letter stating “please remove the following people from the checklist” and listing one or more names does not constitute evidence that these people are no longer qualified as voters. Similarly a letter stating “please remove John Doe from the checklist because I think he might have moved,” does not constitute evidence, it merely

states an unsupported suspicion. But, a letter stating, “Please remove John Doe from the checklist, as he used to be my neighbor and he moved to Florida in June” does state evidence.

If a reasonable person reading the request for correction of the checklist would conclude that, if found true, the evidence in the request would prove the person was no longer qualified as a voter, the 30-day notice letter must be sent.

DECISIONS SUBJECT TO CHALLENGE IN SUPERIOR COURT

Any citizen may bring a complaint before the Superior Court if they believe his or her name or the name of some other citizen is illegally placed on the checklist or is illegally being kept off the checklist. RSA 654:42.

NO PHYSICAL (DOMICILE) ADDRESS INFORMATION ON FILE

Supervisors of the checklist have a legal obligation to ensure that every voter has a residence in the town or city ward in which the voter is registered to vote. Each voter must have a physical (domicile) address.

RSA 659:13, requires that ballot clerks should “state the address listed on the checklist for the voter, and ask if the address is correct” – before providing a ballot to the voter on election day. This is an opportunity to update address information in voter registration files. Supervisors should re-check the checklists for address updates since active voters should have provided ballot clerks with such information on every election day. In addition to having the ballot clerks write the new address on the checklist as required by law, supervisors may also implement a local policy of asking these

voters to come to the supervisors’ table after the person votes, to complete an updated Voter Registration Form.

NOTICE OF DUPLICATE VOTER

The creation of a statewide voter registration system ensures that voters who have moved will sometimes appear twice in the system. Supervisors of the checklist have a legal obligation to resolve duplicates before an election.

If the supervisors of the checklist receive a notice of a duplicate voter from the State or other jurisdiction, they should check their records, looking for information that would help identify whether it is the same voter.

Once they have identified that it is likely to be the same voter, they should refer to the registration date in *ElectioNet* and the paper record to attempt to determine in which town the voter is most likely to have registered most recently. It is reasonable to conclude that the most recent registration is the valid registration. Then, the supervisors or their staff should contact the supervisors or town clerk in the other jurisdiction where the voter is registered and resolve in which jurisdiction the voter should be registered. The supervisor or designee of the jurisdiction that should have the registered voter should log into *ElectioNet*, select Duplicate Voter, and use the “merge voter” function to merge both records.

AVOID ENTRY OF DUPLICATE VOTERS

Supervisors of the checklist should always check Inquiries/Voter Registration in *ElectioNet* before entering new registrants. Over 50% of new registrants are already registered voters in New Hampshire. They have an assigned ID number and voter history that is an

Duties of Supervisors of the Checklist

important record. If an election official enters a new registrant without checking in *ElectionNet* for the name in Inquiries/Registration, there is at least a 50% chance that they will create a duplicate unnecessarily. This costs the town unnecessarily to merge the voter at a later time, eliminates an incentive to remove the voter from the town in New Hampshire where he or she was last

registered, reduces the credibility of the election process, and increases the potential for fraud.

Hint: To readily find a New Hampshire registered voter in *ElectionNet*, it may be useful to search “Statewide” in Inquiries/Registration by entering a partial first and last name.

X. DUTIES OF CLERKS

PRE-ELECTION DAY

E-MAIL ADDRESS, STREET ADDRESS, POLLING HOURS & LOCATION

Clerks shall establish and maintain an official e-mail address and street address, which shall be in *ElectioNet* and publicly available to voters. Clerks shall maintain up-to-date polling place locations for each election, including street addresses and polling hours, and shall keep such information in *ElectioNet*. RSA 654:45, VII; RSA 657:19-c.

ACCEPTING APPLICATIONS FOR REGISTRATION AS A VOTER

Town and city clerks are required, during regular office hours, to accept applications for registration as a voter and, subject to guidelines issued by the supervisors of the checklist, to take evidence of the applicant's qualifications as a voter. RSA 654:8.

RSA 654:7 (b) The secretary of state shall prescribe the form of the voter registration form to be used for voter registrations, transfers, or updates other than those at the polling place on the date of a state general election, which shall be in substantially the following form:
___ *NEW REGISTRATION* *I am not registered to vote in New Hampshire.*
___ *TRANSFER* *I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire.*
___ *NAME CHANGE/ADDRESS UPDATE* *I am registered to vote in this town/ward and have changed my name/address.*

When clerks receive applications in person, determine whether the application is for a new voter, a transfer, or a name/address change., Refer to sample

voter registration forms on pages 218 to 220. Form A is used more than 30 days before an election and for all absentee voter registrations. Form B is used starting 30 days before an election and on election day. Form B has a second side which includes sections allowing an applicant to swear or affirm their domicile, identity, age, and/or United States citizenship.

The supervisors of the checklist make the ultimate determination of whether the applicant is placed on the checklist.

In cities, the city clerk receives evidence of change of domicile from one ward to another from any person already registered to vote and the clerk notifies the registrar of which polling place the voter is to be permitted to vote. RSA 654:8-a.

Clerks must also accept applications for change of party affiliation. The clerk shall require an applicant to give an oath or affirmation affirming his or her affiliation. The clerk must present such applications for change of party affiliation to the supervisors of the checklist who shall cause the party affiliation to be changed on the checklist as soon as permitted by law. Applications submitted between the start of the filing period for the state primary and state primary election day will not be acted on by the supervisors and will not be effective until after the primary. RSA 654:34-a. A change in party affiliation must be documented in *ElectioNet*.

STUDENT VOTERS

Treat students like any other person applying for registration or, if already registered, seeking to vote.

Town of Stratham
Curbside Collection Advisory Committee
Survey Results & Summary
June 2020



In April and May of 2020, the Curbside Collection Advisory Committee surveyed the community about preferences for the future of Stratham's municipal solid waste and recycling program. The results of the 19 question survey are appended to this coversheet. Below is summary of the key findings yielded by the survey. Over six-hundred survey responses were received via the online survey tool and paper submittals. This summary is organized by information the survey was trying to assess.

Community Attitudes Toward the 2019 Proposed Automation Program

Of those taking the survey, 78% indicated they were familiar with the automation program propose at the 2019 program

There was no clear consensus about support for the proposed program, 43% indicated they supported it; 31% indicated they did not and 25% indicated they were not sure.

Of those who did not support the program, the top three reasons they gave were 1) the proposed container size (96 gallon) was too big and not maneuverable. 2) they did not believe the cost savings warrant the switchover; and 3) their household does not generate enough waste to fill the container size.

Of those who did support the program, the top two reasons they did so were 1) the cost savings would 2) the program would make the community better stewards of the environment.

When each responded was asked if they had concern about the container size and 54% indicated they did not.

When each respondents was asked if they had a choice between the bigger size container (96 gallon) and a 64 gallon container, the majority would choose the 64 gallon size 56% to 44%.

When asked if residents should be given an option to switch between container sizes, residents were split between yes and no with approximately 20% indicating no preference.

There was more clear support for residents (83% in favor) being offered an additional container at the residents costs.

The survey revealed wide support for adding a weekday opening of the Transfer Station year round.

Attitude and Commitment to Recycling

The survey revealed a strong commitment to a recycling program, even with the relative cost of recycling per ton over greater use of the landfill. 26% indicated they would not be willing to pay more of a cost premium for recycling. Where 73% indicated they would be willing to many more, with 37% of those saying whatever it costs, the Town should continue to offer curbside recycling.

70% said that knowing the cost differential would not stop the household from wanting to recycle.

75% said that knowing the cost differential does cause them to want to have the town discontinue sponsoring a recycling program.

When asked to pick one aspect of the Towns' current curbside trash and recycling program, which they most value, 46% said picking up of trash and recycling every week; 52% said convenience of bringing trash to the curb.

When asked if residents would be willing to forgo curbside collection and participate in recycling at the transfer station only, residents overwhelming indicated (approximately 75%) they would not be willing to or only as a last resort.

When asked if residents would be willing to bring sorted recyclable commodities to transfer station 44% said yes; nearly 40% said know, and 16% indicated not sure/no preference.

When asked what waste reduction strategy residents would be most willing to pursue on their own to help divert tonnage from the landfill 32% indicated composting; 30% said none; 21.65 said use a centralized facility to sort recycling; and 17.5% said reduce the amount of material they bring into the home.

The survey provides some brief background information on the "Pay As You Throw" system of municipal solid waste management and inquired of interest in Stratham. 61% indicated they would not be supportive and 39% indicated they would be.