



**STATE OF VERMONT**  
OFFICE OF LEGISLATIVE COUNSEL

**MEMORANDUM**

To: House Committee on Government Operations and Military Affairs  
From: Tucker Anderson, Legislative Counsel and Records Officer  
Date: January 30, 2025  
Subject: An explanation of Vermont's election Laws: voter qualification, procedures governing voter checklists, recounts, and revotes

**I. Voter Qualifications and Residency Requirements under the Vermont Constitution and 17 V.S.A. chapter 43, subchapter 1**

Under [chapter II, § 42 of the Vermont Constitution](#), “[e]very person of the full age of eighteen years who is a citizen of the United States, having resided in this State for the period established by the General Assembly and who is of a quiet and peaceable behavior, and will take the [Voter’s Oath], shall be entitled to all the privileges of a voter of this state[.]” The General Assembly has codified this constitutional definition of a “voter” in the Title 17 statutes governing the general qualification of voters for State and local elections.<sup>1</sup>

Residency is a primary component of voter qualification. The General Assembly has articulated the test for residency in [17 V.S.A. § 2122](#), which states in subsection (b) that a “resident” shall mean: “a person who is domiciled in the town as evidenced by an intent to maintain a principal dwelling place in the town indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent.”<sup>2</sup> In general terms, this definition requires that a person demonstrate a combination of *physical presence* in the town and the *demonstrated intent* to maintain that presence *indefinitely*.<sup>3</sup>

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<sup>1</sup> 17 V.S.A. § 2121 provides that for “any election held in a political subdivision of this State[.]” any person may register to vote in their town of residence who on election day: “(1) is a citizen of the United States; (2) is a resident of the State of Vermont; (3) has taken the voter’s oath; and (4) is 18 years of age or more.”

<sup>2</sup> See also [17 V.S.A. § 2103\(30\)](#) (general definition of “resident” for purposes of Title 17).

<sup>3</sup> See Black’s Law Dictionary (12<sup>th</sup> ed. 2024) “Domicile” meaning “The place at which a person has been physically present and that the person regards as home[.]” See also [Shivelhood v. Davis](#), 336 F. Supp. 1111 (D. Vt. 1971) (analyzing the necessary distinction between the intent to reside “indefinitely” and intent to reside “permanently”).

A person may be temporarily absent from the town and not lose their status as a resident. However, any person who “removes to another town with the intention of remaining there indefinitely” shall be considered to have lost residence in their original town of residence.<sup>4</sup> Further, [17 V.S.A. § 2125](#) provides that any person “who moves from Vermont and obtains residence outside the State” shall not be permitted to vote in any Vermont election until that person has again qualified to vote in Vermont.

## **II. Registration of Voters, Checklists, and Related Procedures under 17 V.S.A. chapters 43 and 51**

A voter checklist is an official record of the persons registered to vote for a particular election. Under [17 V.S.A. § 2141](#), a minimum of 30 days before any primary or general election, the municipal clerk must post the most recent checklist in the clerk’s office and two other public locations. The checklist must contain the voter’s name and street address or mailing address, if applicable. The clerk is required to make a copy of the list available to the chair of each political party in the municipality, upon request; the officers with whom primary petitions are filed; and to any other person, upon request.<sup>5</sup>

The town clerk may call a meeting of the board of civil authority to revise the posted checklist based on a challenge. The clerk must post a notice of the meeting and a list of the names that have been challenged and must provide notice directly to the members of the board.<sup>6</sup>

Under [17 V.S.A. § 2146](#), the board shall determine whether the person subject to the challenge meets the voter qualification requirements of [17 V.S.A. § 2121](#). If the board determines that a person does not qualify as a voter for purposes of the election, the clerk is required to mail a notice to the person stating the cause for rejection and informing the person of the right to appear before the board.<sup>7</sup>

The board may correct or transfer names on the voter checklist *at any time* until the closing of the polls on election day, provided that the board follows the procedures required by Title 17.<sup>8</sup> The board, or clerk if requested by the board, may alter the checklist upon the bases outlined in [17 V.S.A. §§ 2147\(a\)](#) (alteration of checklist) and [2150](#) (removing names from the checklist). A person whose application to vote has been rejected or who has been removed from the checklist may appeal to Superior Court for relief. After hearing evidence from the parties, the judge then issues a written order that either affirms the removal of the person from the checklist or orders that the person’s name be added to the checklist.<sup>9</sup>

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<sup>4</sup> 17 V.S.A. § 2122(b).

<sup>5</sup> 17 V.S.A. § 2141.

<sup>6</sup> [17 V.S.A. § 2142](#).

<sup>7</sup> [17 V.S.A. § 2146\(b\)](#). This subsection contains the form that must be used to provide notice to the person.

<sup>8</sup> 17 V.S.A. § 2147(b).

<sup>9</sup> [17 V.S.A. § 2148](#).

The voter checklist is conclusive as to the eligibility of a person to vote in an election. The eligibility of a person on the checklist shall not be challenged on the day of the election, except by the special procedures established in [17 V.S.A. § 2564](#).<sup>10</sup>

On election day, the voter checklist is furnished to the presiding officer of each polling place. The checklist is used to check voters upon entrance and at an exit point as they leave the polling place, unless the board has voted not to use an exit list.<sup>11</sup>

The political parties, each candidate not represented by an organized party, and each committee supporting or opposing a public question may be present at the polling place for purposes of observing the voting process and “challenging the right of a person to vote[.]” This challenge may only be based on one of two bases: (1) that the person is not the person whose name appears on the checklist; or (2) that the person has previously voted in the same election. The board is required to immediately convene to determine whether the challenge may be sustained.<sup>1213</sup>

Following the closing of the polls, the presiding officer is required to tally the entrance and exit checklists and record any discrepancies. These records are required to be sealed and stored with the ballots and tally sheets.<sup>14</sup>

### **III. The Distinction Between Recounts and Revotes under 17 V.S.A. chapter 51, subchapter 9**

Under [17 V.S.A. § 2601](#), a losing candidate for State Representative shall have the right to petition for a recount when “the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is five percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected[.]” The losing candidate has seven calendar days to petition the Superior Court for a recount. In the case of a petition for a recount in a general election, the Superior court shall set the date of the recount to be 10 business days after receipt of the petition.<sup>15</sup>

The candidates then nominate a minimum of 10 nominees for a recount committee. The Superior Court appoints a minimum of 12 members of the committee. As a preliminary procedure, the county clerk is required to review “the official return of votes for each town [and] record on the summary sheet for each town the number of ballots counted and the number of voters checked off the checklist on the town’s return[.]” When the numbers are the same, the checklist for that town shall not be examined. If the numbers are not the same, the procedures for examination of the checklist are initiated.<sup>16</sup>

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<sup>10</sup> [17 V.S.A. § 2149](#).

<sup>11</sup> [17 V.S.A. § 2507](#).

<sup>12</sup> [17 V.S.A. § 2564](#).

<sup>13</sup> Note: in polling places that have checklists totaling not more than 500 voters, the party representatives have the right to view the checklist not more than two times each during the admission of voters. [17 V.S.A. § 2572](#).

<sup>14</sup> [17 V.S.A. § 2583](#).

<sup>15</sup> [17 V.S.A. § 2602](#).

<sup>16</sup> [17 V.S.A. § 2602d](#).

The recount is conducted under the procedures of [17 V.S.A. §§ 2602e](#) and [2602f](#) for the sorting, review, and recount of removed ballots by hand and by vote tabulator.

If the recount of a general election results in a tie, the procedures of [17 V.S.A. § 2602k](#) apply and a runoff election shall be held as a separate election. Only the candidates who appear on the ballot are those who tied in the original election. The statutes governing the conduct of elections generally apply to the conduct of a special run off election.

With the exception of special elections held as a result of a tie between candidates, Title 17 does not contain automatic procedures for a revote following a contested election. Title 17 contains only one special procedure for a required *revote*, which governs instances where a municipal budget is rejected by the voters in a municipality that uses the Australian ballot system.<sup>17</sup> Title 17 additionally contains authority for the Superior Court to order a revote for purposes of resolving a contested election for offices other than the General Assembly.<sup>18</sup>

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<sup>17</sup> [17 V.S.A. § 2680\(c\)\(2\)](#).

<sup>18</sup> [17 V.S.A. § 2603\(e\)](#).