

## **Vermont Agency of Transportation Guidelines - Certificate of Highway Mileage**

These guidelines are intended to assist municipalities and insure the changes submitted on the mileage certificates are processed completely and without delay. The statutory definitions and processes related to Town Highways can be found in the Vermont Statutes Annotated (V.S.A.), Title 19 (Highways), Chapters 3 (Town Highways) and 7 – (Laying Out, Discontinuing, and Reclassifying Highways).

### **Certificate of Highway Mileage and the General Highway Maps**

Each year, the Vermont Agency of Transportation (VTrans) Mapping Section processes the Certificate of Highway Mileage for each municipality and compiles the totals of State Highways, Class 1, 2, 3, and 4 Town Highways, and Legal Trails into a summary. The highway mileage information is used in the formula for the appropriation of State Aid for Town Highways. The Certificate of Highway Mileage and supporting documentation of changes also provides the VTrans Mapping Section with information to make the necessary changes to the General Highway Maps, also referred to as the Town Highway Maps.

This process is defined in 19 V.S.A. § 305 (Measurement and Inspection):

(b) *Annually, on or before February 10, the selectboard shall file with the town clerk a sworn statement of the description and measurements of all class 1, 2, 3, and 4 town highways and trails then in existence, including any special designation such as a throughway or scenic highway. When class 1, 2, 3, or 4 town highways, trails, or unidentified corridors are accepted, discontinued, or reclassified, a copy of the proceedings shall be filed in the town clerk's office and a copy shall be forwarded to the agency.*

### **Documentation of Legal Establishment**

VTrans requires proper documentation that shows the legal establishment of town highways and trails before they may be added to the Town Highway Map. There has been a significant amount of case law following the passage of Act 178 of 2006 and Act 158 of 2008 that clarified the need for proper documentation showing legal establishment of highways through the statutory process or “dedication and acceptance”.

A defining case raising the bar on documentation is *Austin v. the Town of Middlesex*, 2009 VT 102, which dealt with a road that VTrans had been mapping as class 4 town highway for over 40 years. The Vermont Supreme Court determined the road was not a town highway, which resulted in VTrans' removing this road from the map. This case, as well as others, has prompted a higher requirement for documentation for highways and trails before they may be added to the town highway maps. Additional cases include the following Vermont Supreme Court Decisions – *Merritt v. Daiello* (2010) (entry order; three-justice panel) and *Kirkland v. Kolodziej*, 2015 VT 90. Also, there is the Washington Superior Court decision in *Virginia Houston and Jean Damon v. Town of Waitsfield* (2010). In summary, a town highway needs the appropriate level of documentation as evidence to legal establishment, either through the statutory process or through “dedication and acceptance” for inclusion on the VTrans produced general highway maps.

## **Required Supporting Documentation**

To accept the changes submitted by a municipality in the mileage certificate, we need the following supporting documentation:

- A description of the affected highway or trail.
- A current town highway map with the requested deletions and additions sketched on it.
- A copy of the minutes of meetings at which the legislative body took action with respect to the changes.
- A copy of the notices and hearings described further below associated with reclassifications and discontinuances.
- A copy of the Certificate of Completion and Opening for new or altered highways.
- A copy of any surveys of the affected highway or trail.

19 V.S.A. § 305 (Measurement and Inspection) includes, in part, the following language:

*((b) ... When class 1, 2, 3, or 4 town highways, trails, or unidentified corridors are accepted, discontinued, or reclassified, a copy of the proceedings shall be filed in the town clerk's office and a copy shall be forwarded to the agency..*

*(e) The agency shall not accept any change in mileage until the records required to be filed in the town clerk's office by this section are received by the agency. A request by a municipality to the agency for a change in mileage shall include a description of the affected highway or trail, a copy of any surveys of the affected highway or trail, minutes of meetings at which the legislative body took action with respect to the changes, and a current town highway map with the requested deletions and additions sketched on it. A survey shall not be required for class 4 town highways that are legally established prior to February 10, 2006. All records filed with the agency are subject to verification in accordance with subsection (a) of this section.*

### **Clear description of location**

Please include a clear description of the section of highway or trail to be added, reclassified, or discontinued.

For example: the reclassification of TH-50 (Example Dr) from Class 4 to Class 3 starts at a point 500 feet south of TH-28 (Sample Hill Rd) and extends for 0.3 miles southerly from there.

The location should be marked on a copy of the General Highway Map. The map can be an 8 ½" X 11" copy of the map, or a photocopied section of the full size General Highway Map. A copy of the most current General Highway Map is available from the VTrans website at -- <https://vtrans.vermont.gov/planning/maps/town-maps>.

If CADD, GPS, or GIS data layers exist that document the change, this information can be forwarded to VTrans to assist in the mapping process.

### **Notice and hearing of reclassification or discontinuance**

The legislative body shall promptly appoint a time and date for examining the premises and hearing the persons interested, and give thirty days notice to the petitioners, and to persons owning or interested in lands through which the highway may pass or abut, of the time when they will inspect the site and receive testimony.

The legislative body shall also:

- Give notice to any municipal planning commission in the town.
- Post a copy of the notice in the office of the town clerk.
- Cause a notice to be published in a local newspaper of general circulation in the area not less than ten days before the time set for the hearing.

The notice shall be given by certified mail sent to the official residence of the person(s) required to be notified. (19 V.S.A. § 709)

### **Additional notice of discontinuance**

The legislative body shall notify the commissioner of forests, parks and recreation when it has filed a petition to discontinue a highway under this subchapter. (19 V.S.A. § 775)

When submitting a reclassification or discontinuance with your municipality's mileage certificate, please include evidence of these notices and hearings.

### **Survey of new or altered highway**

When the legislative body accepts, lays out, or alters a highway, it shall cause a survey to be made. The survey shall describe the highway and the right-of-way by courses, distances and width, and shall describe the monuments and boundaries. (19 V.S.A. § 704)

### **The minimum standard for a Class 3 highway**

A Class 3 highway is negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. (19 V.S.A. § 302(a)(3(B))

### **Legal Trail Mileage**

The municipality will need to provide information related to trails and their mileage on the certificate, similar to the reporting of highway additions, reclassifications, or discontinuances.

## **RESOURCES**

### **Mileage Certificates**

More information about Mileage Certificates is available at the VTrans Mapping Section website - <https://vtrans.vermont.gov/planning/maps/mileage-certificates>

The webpage includes links to a Certificate Sample, Documentation Checklist, Certificate of Completion and Opening, and Archived Mileage Certificates.

### **Additional information regarding Town Highways**

There are many online resources that can assist a municipality in the process of adding, reclassifying, or discontinuing town highways. Several Internet links are listed below.

Current and Archived Town Highway Maps are online at the VTrans Mapping Section website - <https://vtrans.vermont.gov/planning/maps/town-maps>

VTrans Orange Handbook for Town Officials –

<https://vtrans.vermont.gov/sites/aot/files/operations/TheOrangeBook.pdf>

Town Highway Aid Rates and Mileage -

<http://apps.vtrans.vermont.gov/THGProgram/currentrates.aspx>

For other Town Highway Questions, assistance may be available from the Secretary of State - <https://sos.vermont.gov/>

The Vermont Local Roads Program has information regarding town highways at - <https://localroads.vermont.gov/>

The Vermont Statutes Online, Title 19: Highways -

<https://legislature.vermont.gov/statutes/title/19>

### **Contact Information**

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