

ADMINISTRATIVE RULES FOR PROPERTY INSPECTORS

Effective Date:

Part 1 GENERAL INFORMATION

1.1 The Purpose of Licensure

The Director of the Office of Professional Regulation (the “Director”) is responsible, pursuant to Vermont law, for licensing property inspectors in order to protect the public health, safety and welfare. The Director’s responsibilities include setting standards for issuing licenses, regulating the practice of property inspection and enforcing Vermont’s professional conduct laws.

1.2 Laws that Govern Licensure

The enabling statutes specific to professional property inspection practice in Vermont can be found at 26 V.S.A. §§ 1051-1095. Among the laws governing the regulation of professional practice are: the Professional Regulation law (3 V.S.A. §§ 121-131); the Administrative Procedure Act (3 V.S.A. §§ 801-849); the Open Meeting law (1 V.S.A. §§ 310-314); and the Access to Public Records law (1 V.S.A. §§ 315-320). These laws set forth the rights of an applicant, license holder or member of the public. The complete “Vermont Statutes” are available online at www.leg.state.vt.us. These administrative rules implement and interpret the statutory laws governing the profession. The Office of Professional Regulation (the “Office”) posts the most recent statutes and administrative rules governing the practice of the profession at www.sec.state.vt.us/professional-regulation/professions/property-inspectors.

1.3 Business Address

The Office mailing address is: Office of the Secretary of State, Office of Professional Regulation, Director, 89 Main Street, FL3, Montpelier, VT 05620-3402. Copies of these rules and more information about the profession and its requirements can be obtained by contacting the Office at 1-802-828-2363. This information may also be obtained from the Office’s web site at www.sec.state.vt.us/professional-regulation.

Part 2 INFORMATION FOR APPLICANTS

2.1 Where to Get An Application

An application for licensure or more information about the application process may be found on the Office’s web site at www.vtprofessionals.org. Applicants must submit a completed application with all supporting documentation and fee to the Office. Supporting documentation may include, but is not limited to, evidence of required education, examination results, evidence of a license in any and all jurisdictions and their respective licensing standards, or other licensing standards. An initial license issued to an applicant within 90 days of the current expiration date

will be issued through the next full license period. Applicants issued an initial license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.

2.2 Education Requirements for Licensure

(a) A person may satisfy the 80-hour education requirement for licensure as a property inspector pursuant to 26 V.S.A. § 1091(2) by completing coursework covering the following core property systems:

- (1) heating systems;
- (2) cooling systems;
- (3) plumbing systems;
- (4) electrical systems;
- (5) structural components;
- (6) foundations;
- (7) roof coverings;
- (8) exterior and interior components; and
- (9) site aspects as they affect the building.

(b) The Office shall maintain a list of education providers and courses approved by the Director. The **List of Approved 80-Hour Courses** may be obtained from the Office's web site at <http://vtprofessionals.org/>.

(c) Proof of certification issued by one of the independent, nationally recognized organizations that provides certification for property inspectors identified in Rule 2.4 below satisfies the education requirement.

2.3 Examination Requirements for Licensure

(a) The Director adopts the National Home Inspector Examination developed by the Examination Board of Professional Home Inspectors for the examination required by 26 V.S.A. § 1091(3). Examination results are valid for a period of one year from the date the examination is passed. An examination is considered passed when an applicant has received a passing grade on both parts of the examination. An applicant who fails the examination three consecutive times may not apply for reexamination or submit a new license application unless the applicant submits evidence satisfactory to the Director that the applicant has completed additional core education.

(b) Proof of certification issued by one of the independent, nationally recognized organizations that provides certification for property inspectors identified in Rule 2.4 below satisfies the examination requirement.

2.4 Acceptable Organizations That Provide Certification

The Office shall maintain a list of approved independent, nationally recognized organizations that provide certification for property inspectors. The **List of Approved Organizations that Provide Certification** may be obtained from the Office's web site at <http://vtprofessionals.org/>.

Part 3 INFORMATION FOR LICENSEES

3.1 Definitions

(a) "Inaccessible" means a condition determined by the inspector which does not allow the inspector to safely observe a component or system without the need to move obstacles, the need for personal protection equipment, the use of special tools or equipment, or the need for coded or keyed access, or access resulting in damage or requiring third party permission, and other similar observation limitations. Not readily accessible.

(b) "Further evaluation" means examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by a property inspector.

(c) "Patent" means obvious, self-evident, clear and unobstructed.

(d) "Representative number" means a sufficient number to serve as a typical or characteristic example of the item(s) or component(s) inspected.

3.2 Standards of Practice

(a) These standards of practice define the minimum requirements for inspections. A real estate inspection is a non-technical, limited, visual survey and basic performance evaluation of the systems and components of a building using normal controls and does not require the use of specialized equipment or procedures. The purpose of the inspection is to provide the client with information regarding the general condition of the real property at the time of inspection and provide recommendations for further evaluation by a specialist where necessary to correct, or monitor for future correction, the deficiencies reported. If qualified by education, training and experience, the inspector may provide a higher level of inspection performance than required by these standards of practice, and may inspect components and systems in addition to those described by the standards of practice.

(b) General Standards for Inspection. The property inspector shall:

(1) operate fixed or installed equipment and appliances in at least one mode with ordinary controls at typical settings;

(2) visually inspect readily accessible, observable installed systems and components from near proximity to the systems and components; and

(3) prepare and deliver a written inspection report covering those systems and components required to be inspected pursuant to subsection (c) below, including recommendations for further evaluation by a specialist where necessary, to the person for whom the inspection was performed within five (5) days unless otherwise agreed to in writing by the client.

(c) Specific Standards for Inspection.

(1) When inspecting structural systems the inspector shall inspect:

(A) the structural components including the foundation, framing, floor structure, wall structure, ceiling structure and roof structure; and

(B) a representative number of structural components where deterioration is suspected or where clear indications of possible deterioration exist.

(2) When inspecting the exterior the inspector shall inspect:

(A) siding, flashing and trim;

(B) all exterior doors;

(C) attached decks, balconies, stoops, steps, porches, and their associated railings;

(D) eaves, soffits, and fascias where accessible from the ground level; and

(E) entryway walkways, patios, driveways, grading, surface drainage, and retaining walls which are likely to adversely affect the building.

(3) When inspecting roof systems the inspector shall inspect:

(A) roofing materials;

(B) roof drainage systems;

(C) flashing; and

(D) skylights, chimney exteriors, and roof penetrations.

(4) When inspecting the plumbing system the inspector shall inspect:

- (A) interior water supply and distribution systems including all fixtures and faucets;
- (B) drain, waste and vent systems including all fixtures;
- (C) water heating equipment and hot water supply system;
- (D) fuel storage and fuel distribution systems within the structure; and
- (E) drainage sumps, sump pumps, and related piping.

(5) When inspecting the electrical system the inspector shall inspect:

- (A) service drop;
- (B) service entrance conductors, cables, and raceways;
- (C) service equipment and main disconnects;
- (D) service grounding;
- (E) interior components of service panels and sub panels;
- (F) conductors;
- (G) over current protection devices;
- (H) a representative number of installed lighting fixtures, switches, and receptacles;
- (I) wiring methods;
- (J) the estimated amperage and voltage rating of the service;
- (K) presence of solid conductor aluminum branch circuit wiring; and
- (L) presence and absence of smoke detectors, carbon monoxide detectors, ground fault circuit interrupters, and arch fault circuit interrupters.

(6) When inspecting the heating system the inspector shall open readily accessible panels and inspect:

- (A) central heating system;
- (B) unitary heating system(s) and wall furnaces;
- (C) distribution system;
- (D) vent systems and chimney exteriors; and
- (E) fuel storage and distribution systems excluding propane tanks.

(7) When inspecting the air conditioning system the inspector shall open readily accessible panels to inspect:

- (A) permanently installed central systems; and
- (B) distribution systems.

(8) When inspecting the interior the inspector shall inspect:

- (A) walls, ceilings, and floors;
- (B) steps, stairways, and railings;
- (C) countertops and a representative number of installed cabinets;
- (D) garage doors and garage door operators; and
- (E) a representative number of windows and doors.

(9) When inspecting the insulation and ventilation the inspector shall inspect:

- (A) the presence or absence of insulation and vapor barriers in unfinished spaces;
- (B) ventilation of attics and foundation areas; and
- (C) mechanical ventilation systems.

(10) When inspecting fireplaces the inspector shall inspect:

- (A) built-in and free-standing fireplaces and heating stoves; and
- (B) chimney exterior and vents.

(d) The inspection report shall be in writing and shall include:

- (1) the name and license number of each inspector who participated in performing the inspection;
- (2) the address or other unique description of the property on each page of the report;
- (3) the client's name;
- (4) a description of the type and distinguishing characteristics of the systems and components required to be inspected pursuant to subsection (c) above;
- (5) an explanation of the systems and components inspected that the inspector has reason to believe or suspect may be significantly deficient, unsafe, functioning improperly, or near the end of their service lives; and
- (6) a recommendation for further evaluation by a specialist where necessary to evaluate the areas of concern noted in subsection (5) immediately above.

(e) General Limitations. The inspector is *not* required to:

(1) inspect:

- (A) items other than those listed within these standards of practice;
- (B) anything buried, hidden, latent, inaccessible or concealed;
- (C) detached buildings, decks, docks, fences, or waterfront structures or equipment, including seawalls, break-walls, and docks;
- (D) screening, shutters, awnings, and similar seasonal accessories;
- (E) geological and/or soil conditions;
- (F) recreational facilities;
- (G) erosion control and earth stabilization measures;
- (H) concrete flatwork such as driveways, sidewalks, walkways, paving stones or patios;
- (I) sub-surface drainage systems;
- (J) automated or programmable control systems, automatic shut-offs,

photoelectric sensors, timers, clocks, metering devices, signal lights, lightning arrestor systems, remote controls, security or data distribution systems, solar panels or smart home automation components;

(K) elevators;

(L) antennae;

(M) interiors of flues or chimneys on or attached to the roof;

(N) structural components when probing would damage any finished surface or where no deterioration is visible or presumed to exist;

(O) wells, well pumps, or water storage related equipment;

(P) water conditioning systems;

(Q) solar systems;

(R) fire and lawn sprinkler systems;

(S) private waste disposal and sewer ejector systems;

(T) low voltage wiring systems and components;

(U) heat exchangers;

(V) humidifiers or dehumidifiers;

(W) electronic air filters;

(X) mechanical dampers;

(Y) paint, wallpaper, and other finish treatments; or

(Z) window or wall mounted air conditioning units;

(2) report:

(A) past repairs that appear to be effective and workmanlike except as specifically required by these standards;

(B) cosmetic or aesthetic conditions; or

(C) wear and tear from ordinary use, provided such wear and tear does not otherwise affect the function or safety of an inspected component;

(3) determine:

(A) insurability, warrantability, suitability, adequacy, compatibility, capacity, reliability, marketability, operating costs, recalls, counterfeit products, product lawsuits, life expectancy, exact age, energy efficiency, thermostatic performance, compliance with any code, listing, testing or protocol authority, utility sources, or manufacturer or regulatory requirements;

(B) the presence or absence of pests, termites, or other wood-destroying insects or organisms; provided, however, that licensees shall report visible and patent evidence of infiltration of pests, termites, or other wood-destroying insects or organisms;

(C) the presence, absence, or risk of asbestos, lead-based paint, mold, mildew, corrosive or contaminated drywall or any other environmental hazard, environmental pathogen, carcinogen, toxin, mycotoxin, pollutant, fungal presence or activity, or poison; provided, however, that licensees shall report visible and patent evidence of asbestos, lead-based paint, mold, mildew, corrosive or contaminated drywall or any other environmental hazard, toxin, pollutant, fungal presence or activity, or poison;

(D) types of wood or preservative treatment and fastener compatibility;

(E) the cause or source of a condition;

(F) whether water supply and waste disposal systems are public or private;

(G) water supply quantity or quality;

(H) amperage, voltage or impedance;

(I) cooling supply adequacy or distribution balance;

(J) heat supply adequacy or distribution balance; or

(K) types of insulation;

(4) anticipate future events or conditions, including but not limited to:

(A) decay, deterioration, or damage that may occur after the inspection;

(B) deficiencies from abuse, misuse or lack of use;

(C) changes in performance of any component or system due to changes in use or occupancy;

(D) the consequences of the inspection or its effects on current or future buyers and sellers;

(E) common household accidents, personal injury, or death;

(F) the presence of water penetrations; or

(G) future performance of any item;

(5) operate shut-off, safety, stop, pressure or pressure-regulating valves or items requiring the use of codes, keys, combinations, or similar devices;

(6) designate conditions as safe;

(7) recommend or provide engineering, architectural, appraisal, mitigation, physical surveying, realty, or other specialist services;

(8) review historical records, installation instructions, repair plans, cost estimates, disclosure documents, or other reports;

(9) verify sizing, efficiency, or adequacy of the ground surface drainage system;

(10) verify sizing, efficiency, or adequacy of the gutter and downspout system;

(11) operate recirculation or sump pumps;

(12) remedy conditions preventing inspection of any item;

(13) apply open flame or light a pilot to operate any appliance;

(14) turn on decommissioned equipment, systems or utility services; or

(15) provide repair cost estimates or re-inspection services.

(f) In the event of a conflict between specific provisions and general provisions in the standards of practice, specific provisions shall take precedence.

(g) An inspector may depart from the inspection of a component or system required by the standards of practice only if:

- (1) the inspector and client agree the item is not to be inspected;
- (2) the inspector is not qualified to inspect the item;
- (3) in the reasonable judgment of the inspector, conditions exist that prevent inspection of an item;
- (4) the item is a common element of a multi-family development and is not in physical contact with the unit being inspected, such as the foundation under another building or a part of the foundation under another unit in the same building;
- (5) the inspector reasonably determines that conditions or materials are hazardous to the health or safety of the inspector; or
- (6) in the reasonable judgment of the inspector, the actions of the inspector may cause damage to the property.

(h) If an inspector departs from the inspection of a component or system required by the standards of practice, the inspector shall:

- (1) notify the client in writing at the earliest practical opportunity that the component or system will not be inspected; and
- (2) make an appropriate notation on the inspection report, stating the reason the component or system was not inspected.

3.3 Unprofessional Conduct; Practice Standards

In addition to the conduct prohibited pursuant to 3 V.S.A. § 129a, the following acts by a property inspector violate essential standards of acceptable and prevailing practice and constitute unacceptable client care:

- (a) performing or offering to perform, for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has prepared a home inspection report in the past 12 months;
- (b) inspecting for a fee any property in which the inspector, or the inspector's company, has any financial interest or any interest in the transfer of the property;
- (c) offering or delivering any compensation, inducement, or reward to the owner of the inspected property, the broker, or agent, for the referral of any business to the inspector or the inspection company;

(d) soliciting or accepting any compensation, inducement, or reward from contractors, engineers, architects, repair persons, or other providers of property repair services for the referral of any business arising from a property inspection;

(e) accepting an engagement to make an inspection or to prepare a report in which the employment itself, the fee payable for the inspection, or the expectation of future assignments is contingent upon the conclusions in the report, pre-established findings, or the close of escrow;

(f) cooperating with any real estate broker or salesperson in any plan, practice, or arrangement tending to frustrate the purpose of 26 V.S.A. § 2296(a)(9) (requiring a broker or salesperson to fully disclose to a buyer all material facts within the licensee's knowledge concerning the property being sold);

(g) performing any property inspection in a manner that is negligent, incompetent, or beyond the inspector's scope of training and experience;

(h) failing to disclose to a client, orally and again in the written inspection report, any personal, familial, or pecuniary interest the inspector may have in the outcome of an inspection;

(i) delivering a written inspection report to any third party without the written consent of the client; or

(j) failing to comply with a standard of practice set forth in these rules.