

Deed Indexing Standards 2018 – DRAFT 2

The Massachusetts Registers and Assistant Registers of Deeds Association is updating the Massachusetts Deed Indexing Standards for January 1, 2018. This draft incorporates *feedback received from registries after reviewing Draft 1 of this document and is also based on decisions made by the Registers' Association on May 10, 2016 at the Worcester Registry of Deeds.*

INTRODUCTION

One of the primary functions of the registry of deeds is to create an index that allows registry users to find documents relevant to their research. This booklet explains how registries in Massachusetts index documents. It also provides guidance on issues that frequently arise during the recording process.

This is the fourth version of these standards. Others were promulgated in 2000, 2006, and 2008. This latest version – January 1, 2018 – reflects statutes, court decisions, and technology that have been enacted, announced or implemented since 2008.

Each of these standards reflects the practice of the great majority of Massachusetts Registries of Deeds. However, due to variations in technology, local legal culture and other factors, universal compliance with these standards is a practical impossibility. Therefore, individual registries may create a local supplement that explains how local practices differ from these rules.

Questions or comments on these standards should be directed to Richard P. Howe Jr., Register of Deeds of the Middlesex North District, by mail to 360 Gorham St, Lowell MA 01852; by phone at 978/322-9000; or by email at richard.howe@sec.state.ma.us.

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I. INDEXING NAMES AND ADDRESSES

1. Index as Presented in Document – (NEW) Unless stated otherwise in these standards, names and addresses shall be entered in the registry index as they appear in the document being recorded.

2. Abbreviations in Names – (1-2) The following words must be abbreviated as indicated when included in a name *unless the word comes first in the name in which case it is spelled out*:

And	&
Company	CO
Companies	CO
Corporation	CORP
Department	DEPT
Incorporated	INC
Limited	LTD
Limited Liability Company	LLC
Limited Liability Partnership	LLP
Limited Partnership	LP

3. Abbreviations in Addresses – (3-1) The following words must be abbreviated when used in an address:

Avenue	AVE
Boulevard	BLV
<i>Circle</i>	<i>CIR</i>
Drive	DR
Lane	LN
Parkway	PKW
Place	PL
Road	RD
Square	SQ
Street	ST
Terrace	TER
Turnpike	TPK

4. Address as Name – (1-2) A street name that is used as the name of an entity shall not be abbreviated. EX. First Street Realty Trust indexed as FIRST STREET REALTY TRUST.

5. Also/Formerly Known As – (1-3) When a person is known by more than one name, enter each name as if it belonged to a separate person. Do not include *the abbreviations* aka or fka in the index.

6. Business Using Human Name – (1-5) A human name used as the name of a business should be entered in the order presented. EX. John Jones Construction is indexed JOHN JONES CONSTRUCTION.

7. Condominium Unit Number in Address –(3-2) – A condominium unit number is part of a property's address and shall be entered in the index. Check with individual registries to determine which field of the

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index contains the unit number. Some enter it in the street name field following the name of the street; others in the description field.

8. Degrees and Certifications – (1-5) Words or abbreviations indicating degrees or certifications (CPA, MD, ESQ) shall be omitted.

9. Estates – (1-6) The name of an estate shall be indexed as a human name with the suffix extension (EST) following the first name. EX. Estate of John Jones is indexed JONES, JOHN EST.

10. Government Names – (1-8, 1-9, 1-10) Enter government names in the index as follows:

City of Lowell is indexed LOWELL CITY

Lowell Conservation Commission is indexed LOWELL CITY CONSERVATION

Billerica Planning Board is indexed BILLERICA TOWN PLANNING

Commonwealth of Massachusetts is indexed MASSACHUSETTS COMM

Massachusetts Department of Revenue is indexed MASSACHUSETTS COMM REVENUE

United States Treasury is indexed USA TREASURY

IRS is indexed USA TREASURY

Secretary of Housing and Urban Development is indexed USA HOUSING URBAN DEVELOPMENT

11. Hyphenated Names – (1-11, 1-12) Two or more words connected by a hyphen are treated as one word. The hyphen is retained in the index. EX. Jane Smith-Simpson is indexed SMITH-SIMPSON, JANE.

12. Lineage Suffix – (1-14) Any lineage suffix – Jr. or III, for example – is included in the first name field, after the first name and middle initial. EX. John Jones Jr is indexed JONES, JOHN JR

13. MERS or Mortgage Electronic Registration System – (1-15) Should be indexed as MORTGAGE ELECTRONIC REGISTRATION SYSTEM INC. The name of the bank or mortgage company involved may be entered in the index but is not required.

14. Middle Names and Initials – (1-7) Enter a middle name or initial in the first name field, after the first name. Do not place a period after an initial. Separate multiple initials with a space.

15. Mount or MT – (1-16) A last name that contains Mount or Mt should be entered as two words in the last name field. The name should be entered in the index the way it appears on the document. *Ex. Mt Hope Street should be indexed MT HOPE ST and Mount Hope Street should be indexed MOUNT HOPE ST.*

16. Multiple Last Names – No Hyphen – (1-17) Multiple word surnames shall not be assumed. Only the last word in a person's name should be entered in the last name field. EX. Jane Smith Simpson (no hyphen) is indexed SIMPSON, JANE SMITH.

17. Non Traditional Names – (1-18) Non traditional names shall be entered as presented with the last word entered in the last name field and any preceding words entered in the first name field.

18. Numbers in Names – (1-19) A number that is part of a name shall be entered as it appears on the document.

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19. Prefixes – (1-20) A last name presented with an obvious prefix should be entered as one word without spaces or punctuations. EX. John Le Carre is indexed LECARRE, JOHN.

20. Punctuation Marks – (Changes to 1-13) *Do not enter apostrophes in the index. Do include other punctuation marks. EX. David O’Hara should be indexed OHARA, DAVID but Amazon.com should be indexed AMAZON.COM.*

21. Saint or ST – (1-21) A last name that contains Saint or St should be entered as two words in the last name field. The name should be entered in the index the way it appears on the document. EX. Paul St Louis is indexed ST LOUIS, PAUL *and Paul Saint Louis is indexed SAINT LOUIS, PAUL.*

22. The – (1-22) Omit “The” when it appears as the first word of a name. EX. The Markley Group is indexed MARKLEY GROUP.

23. Trusts and Trustees – (1-23) A party designated as a TRUSTEE shall be indexed in accordance with these standards with the suffix extension TR depicting the status as trustee added after the first name and middle initial (if any) in the First Name field. The name of the trust shall also be entered in the index. EX. John Jones, Trustee of Jones Realty Trust is indexed JONES, JOHN TR and JONES REALTY TRUST.

24. Van – (1-24) Unless it clearly appears that the word “Van” is a person’s first or middle name, “Van” shall be treated as part of the person’s last name, with “Van” and any other last name being entered in the last name field of the index as two separate words. EX. Norman Van Brocklin is indexed VAN BROCKLIN, NORMAN.

II. ACKNOWLEDGEMENTS

1. Acknowledgement Required – (4-1 AND Appendix A) The document types listed below must be acknowledged to be recorded. Document types not on this list shall be accepted for recording whether or not they are acknowledged: *(List now alphabetized)*

- a. Assignment
- b. Assignment of lease
- c. Boundary line agreement
- d. Certification of translation of foreign language document
- e. Declaration of Trust
- f. Deed
- g. Discharge
- h. Dissolution of attachments by plaintiff, or his executor, administrator or attorney of record
- i. Easement
- j. Homestead
- k. Incorporation Certificate re Roman Catholic Church
- l. Lease
- m. Lien for failure to reimburse the Commonwealth for removal of wharves or piers
- n. Mechanic’s Lien Notice
- o. Mortgage

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- p. Notices of lease
- q. Option to purchase
- r. Partial release
- s. Planning Board Release
- t. Power of attorney
- u. Purchase and sale agreements
- v. Receipt of federal revenues for succession tax
- w. Release of Damages (General Releases)
- x. Release of homestead
- y. Release of Notice of Contract
- z. Resignation of Trustee
- aa. Subdivision Covenant Release and Clerk's Certificate
- bb. Tax Redemption
- cc. Tax Taking
- dd. Terminations of lease
- ee. Veteran's Agent Lien or Discharge

2. Affidavits – *(NEW)* All affidavits and Certificates of Trust under MGL c.184, s.35, must be signed “under the pains and penalties of perjury,” however, they need not be acknowledged to be recorded.

3. Modification of Mortgage – *(NEW)* To record a Modification of a Mortgage, the signature of at least one borrower and of at least one lender must be acknowledged.

4. Notary Stamp or Seal (MGL c.222, s.8) – *(NEW)* Failure of a notary public to affix his official seal or stamp to the document being acknowledged shall not affect the recordability of the document provided the notary has signed the acknowledgement clause and has printed his name and the expiration date of his commission beneath his signature.

5. One or More Grantors – *(4-3)* At least one grantor signature on a deed or other written instrument must be properly acknowledged for the document to be recorded. However, both signatures on a declaration of homestead filed by a married couple must be acknowledged for the document to be recorded.

6. Out of State Acknowledgement – *(4-4)* An acknowledgment made outside of the Commonwealth but within any state, territory, district or dependency of the United States, shall be made by: a justice of the peace, notary public, or magistrate of the state in which the acknowledgment is made; a commissioner appointed therefor by the governor of the Commonwealth of Massachusetts; or any other officer of the state in which the acknowledgment is made provided that a certificate of authority of said officer in the form prescribed by M.G.L. c. 183, s. 33 is attached thereto. To be recorded in Massachusetts, such an acknowledgement does not require the seal of the officer taking the acknowledgement.

7. Out of Country Acknowledgement – *(4-5)* An acknowledgment made outside of the United States or any dependency thereof shall be made by: a justice of the peace, notary public, or magistrate of the country in which the acknowledgment is made; a commissioner appointed therefor by the governor of the Commonwealth of Massachusetts; or an ambassador, minister, consul, vice consul, charge d'affaires or consular officer or agent of the United States accredited to the country where the acknowledgment is made and, if made before an ambassador or other official of the United States, it shall be certified by him under his seal of office.

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8. Sufficiency of Acknowledgement – *(NEW but see 4-2)* To be recorded, an acknowledgement must contain the original signature and printed or typed name of the officer making the acknowledgement; the expiration date of the officer’s commission; the name of the person whose signature is being acknowledged; and some language that indicates that the officer intends such signature to constitute an acknowledgement.

III. APOSTILLE

1. Apostille: How Obtained – *(NEW)* A notarized document being sent from Massachusetts to a foreign country may require an apostille which is a document issued by the Massachusetts Secretary of State that verifies the authenticity of the notary’s signature on the document. To obtain an apostille: (1) have your document acknowledged by a notary public; (2) ensure that (a) the notary signs her name exactly the way it appears on her notary commission; (b) the certification language (i.e., “Personally appeared the above-named . . .”) is fully completed; (c) that the notary’s “expiration date” is clearly stated on the document; and (d) that the notary has affixed her notary seal on the document and that the imprint is legible; then (3) bring the original notarized document to Secretary of the Commonwealth’s Commissions Section, One Ashburton Place Room 1719, Boston MA 02108, 617/727-2836, along with a check or money order for \$6 per document. *Apostilles are also available at Berkshire Superior Court. Contact the court for details.*

IV. ATTORNEY AFFIDAVIT

1. MGL chapter 183, section 5B – *(7-1)* An affidavit made by a person claiming to have personal knowledge of the facts therein stated and containing a certificate by an attorney at law that the facts stated in the affidavit are relevant to the title to certain land and will be of benefit and assistance in clarifying the chain of title, shall be filed for record and shall be recorded in the registry of deeds where the land or any part thereof lies. To be accepted for recording, a 5B affidavit:

- a. Must be signed by the affiant under the pains and penalties of perjury;
- b. Must be certified by an attorney licensed to practice law in the Commonwealth of Massachusetts;
- c. Must contain the typed or printed name, address, phone number and Board of Bar Overseers (BBO) number of the attorney making the certification; and
- d. Must NOT contain as Exhibits documents that are otherwise generally recordable on their own.

V. CHANGES TO INDEX

1. Record of Changes – *(NEW)* Any change or correction to an index or record made by the registry of deeds shall be documented in a manner that records the nature and date of the change or correction and that is available for public inspection at the registry during normal business hours.

VI. CONFIRMATORY DOCUMENTS

- 1. Explanation Included** – *(NEW)* Any document that is intended to confirm or correct a previously recorded document SHALL include the book and page number of the earlier document and a brief explanation of the purpose of the confirmatory document.
- 2. Re-Recording a Document** – *(NEW but see 7-11)* A document that has already been recorded may not be recorded again unless it has first been re-executed and re-acknowledged. *(Land Court does not generally allow confirmatory documents or re-registered documents without a Court order or approval).*

VII. CONSERVATION RESTRICTION

- 1. Authority** – *(NEW)* MGL c. 184, s.32 states in pertinent part that “No conservation restriction . . . held by any governmental body or by a charitable corporation or trust whose purposes include conservation of land or water areas . . . shall be unenforceable . . . provided (a) in case of a restriction held by a city or town or a commission, authority or other instrumentality thereof it is approved by the Secretary of Energy and Environmental Affairs if a conservation restriction . . .and (b) in case of a restriction held by a charitable corporation or trust it is approved by the mayor, city council, or selectmen or town meeting of the town, in which the land is situated, and the secretary of environmental affairs if a conservation restriction.”
- 2. Indexed and Charged as Single Document** – *(NEW)* MGL c.184 requires three distinct elements for every conservation restriction. They are: (1) the grant of the conservation restriction, executed and acknowledged by the land owner; (2) the acceptance of the conservation restriction by the conservation commission of the municipality in which the land is located; and (3) the approval of the grant and acceptance by the Secretary of Energy and Environmental Affairs. These three elements constitute a single document. They should be recorded as a single document, charged a fee for a single document (\$75), and all names should be indexed as in a single document.

VIII. COPIES

- 1. Certified Copies** – *(7-2, modified)* The registry of deeds will accept for recording (1) a copy of a document recorded at another registry of deeds that has been certified by that registry of deeds; and (2) a copy of a document from a court or other government agency that has been certified by the issuing court or government agency.
- 2. Electronically Transmitted Government Documents** – *(NEW)* Electronic documents from a government agency that are transmitted to a third party in electronic form and then printed by the third party and presented for recording are acceptable provided that the governmental entity that created the document intends the printed version of the electronic image to constitute an original document.
- 3. Marginal References on Certified Copies** – *(NEW)* The person presenting a certified copy of a document for recording may annotate such certified copy in its bottom margin with one or more book and page numbers to which marginal references are requested to be made by the registry.

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4. Original Documents – (7-3) The registry of deeds will only accept for recording original documents or copies certified in accordance with these standards.

5. Social Security Numbers in Certified Copies – (NEW) The person presenting a certified copy of a document for recording shall redact the first five digits of any social security number appearing in the document before recording it.

IX. DEEDS

1. Consideration on Deeds – (NEW) MGL c.183, s.6 - Section 6. Every deed presented for record shall contain or have endorsed upon it the full name, residence and post office address of the grantee and a recital of the amount of the full consideration thereof in dollars or the nature of the other consideration therefor, if not delivered for a specific monetary sum. The full consideration shall mean the total price for the conveyance without deduction for any liens or encumbrances assumed by the grantee or remaining thereon. All such endorsements and recitals shall be recorded as part of the deed. Failure to comply with this section shall not affect the validity of any deed. No register of deeds shall accept a deed for recording unless it is in compliance with the requirements of this section.

2. Grantee Address – (NEW) A deed shall not be accepted for recording unless it contains the mailing address of the grantee.

3. Property Address on First Page – (3-3, modified) A deed shall not be accepted for recording unless it contains the address of the property being conveyed (1) on the first page of the document (2) with the address clearly labeled “property address.”

4. Sufficiency of Property Description – (NEW) A deed shall not be accepted for recording unless the property being conveyed is described “with such particularity as to make it capable of identification.” At a minimum, the description must include the municipality in which the land is located, and (1) identify the land as a particular lot on a recorded plan; (2) include a “metes and bounds” description of the property, usually carried forward from a prior deed in the chain of title; (3) identify the property being conveyed as the same conveyed in a prior deed which is identified by its book and page number; or (4) state that no new lines or boundaries have been created by the deed.

5. Tenants by the Entirety – (Appendix C) A deed that conveys title to two individuals as Tenants by the Entirety may be recorded even when there is no mention of “husband and wife” or “married to each other” or similar language.

X. DEED OF DISTRIBUTION

1. Indexing – (NEW) A deed of distribution shall be indexed as a “deed” with the names of the decedent and the personal representative indexed as grantors and the names of the distributees as grantees.

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- 2. Property Description** – *(NEW)* A deed of distribution must contain an adequate legal description of the real estate that has been transferred and must contain a book and page number of the deed that created ownership in the decedent or the certificate of title number held by the decedent prior to death.
- 3. Purpose** – *(NEW)* Where ownership of real property is transferred pursuant to a probate estate, the personal representative of the estate shall execute a deed of distribution as evidence of the distributee's title to the property. (MGL c.190B, s3-907).
- 4. Recording** – *(NEW)* A deed of distribution may be recorded at the registry of deeds for the district in which the real estate is located. The filing fee for a deed of distribution is \$125. There is no consideration involved in a deed of distribution, so there is no deeds excise tax.
- 5. Registered Land** – *(NEW)* – *For Land Court treatment of Massachusetts Uniform Probate Code, see memo of Chief Title Examiner, dated October 13, 2012 at <http://www.mass.gov/courts/docs/courts-and-judges/courts/land-court/mupc-memo.pdf>*

XI. DEEDS EXCISE TAX

- 1. Abatement** – *(NEW)* A customer who overpays the deeds excise tax at the registry of deeds may file for an abatement of the tax with the Massachusetts Department of Revenue by using DOR Form ABT (Application for Abatement).
- 2. Assumed Mortgage** – *(9-3)* When the purchaser of real estate buys property “subject to” an existing mortgage, or “assumes” an existing mortgage, the amount of the indebtedness is not taxable. To permit the registry of deeds to accurately calculate the tax liability, the deed conveying the property should state the full consideration being paid for the property and the outstanding amount of the mortgage being assumed. See DOR Directive 88-18.
- 3. Deed in Lieu of Foreclosure** – *(9-4)* When a borrower conveys ownership of property to a lender in return for the lender cancelling the debt secured by a mortgage on the property, the amount of the mortgage debt being forgiven is consideration. The deeds excise tax due is calculated by adding the amount of the debt being forgiven plus the value of any additional cash paid to the borrower/property owner. See DOR Directive 88-18.
- 4. Divorce: Division of Marital Assets** – *(NEW)* A deed that conveys an interest in real estate from one spouse to another for consideration in excess of \$100 is not subject to the deeds excise tax provided the deed specifically states that the amount paid is a division of marital assets pursuant to the divorce and lists the court and docket number of the divorce case.
- 5. Exemptions from Deeds Excise Tax** – *(NEW, but see 9-6)* A sale of real estate that involves a governmental entity as either a seller or buyer is exempt from the payment of the deeds excise tax. Freddie Mac, Fannie Mae, Ginnie Mae, and RTC are all deemed to be governmental entities for purposes of this rule.

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6. Imposition of Tax – (9-1) Massachusetts imposes an excise tax upon the transfer of any deed, instrument or other writing whereby realty is conveyed to a purchaser. The excise is based upon the consideration given for the property and applies, whenever the consideration, exclusive of the value of any lien or encumbrance remaining on the property, is greater than \$100. The tax is paid by the person making or signing the deed and is evidenced by a stamp affixed to it. The tax is \$2.28 for each \$500 or fraction of consideration. *However, for deeds recorded in Barnstable County, the deed excise tax is \$3.24 per \$500.*

7. Martha’s Vineyard & Nantucket Land Bank – (9-2) Additional fees are assessed in Nantucket and Dukes Counties by their Land Bank Commissions. To contact the Nantucket Land Bank Commission, go to www.nantucketlandbank.org or call 508-228-7240. To contact the Martha’s Vineyard Land Bank Commission (Dukes County), go to <http://www.mvlandbank.com/> or call 508-627-7141.

8. Nominee Trusts – (NEW, but see 9-7) The sale of a beneficial interest in a nominee trust for consideration in excess of \$100 is subject to the deeds excise tax. The excise stamps should be affixed to the assignment of beneficial interest, whether or not that document is recorded. DOR Directive 95-5. The registry may require the presentment of the document to which the stamp is to be affixed even if that document is not to be recorded as a condition of selling such a stamp.

9. Partition of Jointly Held Property – (9-5, but inadvertently omitted from Draft 1) *When no party in partition of a joint tenancy receives a greater interest than he held before, no deeds excise tax is due. Where any party receives an interest in jointly owned property greater than his original undivided interest, there is a deeds excise imposed based on the consideration given for the excess value of the property. Where an interest in property is conveyed out to a third party, a deeds excise is due on the consideration paid for the portion conveyed. In each case, where an excise is due, it is to be paid by the person making or signing the deed. DOR Directive 89-13.*

10. Register of Deeds/Refusal to Record – (9-8) The register of deeds may refuse to record or register any deed, instrument or writing which does not have the stamps required by chapter 64D attached thereto. MGL c.64D, s.6B.

11. Tax Already Paid – (NEW) When the same deed is recorded in two registry districts, or on registered land and recorded land in the same district, the full deeds excise tax should be paid with the first recording. A certified copy of the first recording, which would show the excise tax that was affixed to that document, should be used for the second recording. However, if duplicate original documents are used, the deed recorded second should contain a statement that the deeds excise tax for the conveyance had already been paid and should cite the book, page and registry district of the already-recorded duplicate original deed.

XII. DIVORCE

1. Divorce and Deeds Excise Tax – (NEW) A deed that conveys an interest in real estate from one spouse to another for consideration is not subject to the deeds excise tax if the deed specifically states that the amount paid is a division of marital assets pursuant to the divorce and lists the court and docket number of the divorce case.

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2. Divorce Decree: Transfer of Title – (*Appendix C*) The recording of a duly certified copy of a divorce decree in the registry of deeds of the district where said real estate is situated, shall have the same force and effect as if a duly executed deed, conveyance or release had so been recorded. For example, if a decree of divorce orders the conveyance of real property, a certified copy of the divorce decree may be recorded in lieu of a deed. The recording fee for the divorce decree is \$75. See MGL c.183, s.44.

XIII. ELECTRONIC RECORDING

1. Application of Deed Indexing Standards – (*NEW*) When submitting documents through the electronic recording system, submitters shall comply with all requirements of these Deed Indexing Standards, particularly those standards related to indexing names and addresses.

2. Documents Ineligible for Electronic Recording – (*NEW*) Multifunction documents shall not be recorded electronically *unless the submitter first obtains approval from the registry to which the document is to be transmitted for electronic recording*. No deed that is exempt from the deeds excise tax shall be recorded electronically unless the submitter first obtains approval from the registry to which the document is to be transmitted for electronic recording.

3. Land Bank: Dukes & Nantucket – (*NEW*) Due to the requirements of the Land Bank, the registries of deeds for Dukes and Nantucket may not accept deeds via electronic recording.

4. Original Documents – (*NEW*) Only original documents bearing original signatures and acknowledgements or certified copies from a registry of deeds or from another governmental entity (provided that the scanned image of the document presented for electronic recording contains the governmental certification) may be recorded electronically.

5. Submitter Eligibility – (*NEW*) Only certain classes of entities or people are permitted to record documents electronically. These include (1) an attorney authorized to practice law in the Commonwealth of Massachusetts; (2) a title insurer licensed by the Commonwealth of Massachusetts; (3) a state or federally chartered bank insured by the FDIC; (4) a credit union insured by the National Credit Union Administration; (5) an agency of the Commonwealth of Massachusetts; (6) an agency of a political subdivision of the Commonwealth of Massachusetts; or an agency of the federal government.

6. Registered Land – (*NEW*) No registered land document shall be submitted for electronic recording unless the submitter ensures that the registry to which the document is to be transmitted accepts registered land documents for electronic recording.

XIV. FORECLOSURES

1. Affidavits Required: How Indexed – (*NEW*) When indexing affidavits recorded pursuant to MGL c.244, s.35B; c.244, s.35C; the Post Foreclosure Affidavit Regarding the Note; and other statutorily-required, foreclosure-related affidavits, the registry shall index the name of the individual signing the affidavit as well as the name of the bank or entity conducting the foreclosure.

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2. Mortgagee's Deed and Affidavit – NEW) A mortgagee's deed and the mortgagee's affidavit related to the exercise of the power of sale, *and an assignment of bid, if any*, for purposes of recording, fee calculation, and indexing, are deemed to be a single document. The affidavit related to the exercise of the power of sale must have taped to it in a manner that permits the registry to effectively scan it, the original newsprint version of the mortgagee's notice of sale that was published as a newspaper legal notice; however, a digital version of such mortgagee's notice of sale that is embedded in and printed as part of the document, is an acceptable alternative to the newsprint version of such notice. In all other respects, a mortgagee's deed and affidavit is subject to the prohibition of "multiple documents attached as exhibits."

XV. FOREIGN LANGUAGE DOCUMENTS

1. Translation Required – (7-5) No document written in a language other than English shall be recorded unless it is accompanied by a certified translation into English. In such a case, the document to be recorded shall consist of (1) the English language translation with signatures typed or legibly printed and preceded by "/s/" to indicate a signature; (2) a certification of the accuracy of the translation signed by the translator and acknowledged; and (3) the original foreign language document. The certification may contain facts pertinent to the translator's qualifications. All three documents – the translation, the certification, and the original document – shall be recorded as a single document with a single recording fee.

XVI. FORMATTING STANDARDS FOR DOCUMENTS

1. Document Formatting – (Section 10) All documents presented for recording must meet the following formatting standards, promulgated pursuant to MGL c.36, s.12A ("A register of deeds may refuse to accept an instrument for recording if it cannot be properly duplicated or a proper record cannot be made thereof.").

- a. Be on white paper of sufficient weight to reproduce on registry scanners.
- b. All document pages and attachments must be on paper that is no larger than 8.5 inches by 14 inches.
- c. Printing shall be on one side only; double-sided pages will not be accepted.
- d. Documents that contain printing, writing or other markings must be sufficiently dark in appearance to be legibly reproduced on standard registry scanners.
- e. All printing and writing on a document must be of sufficient size to be legibly reproduced on standard registry scanners.
- f. Margins on all sides of all document pages must be of sufficient size to be legibly reproduced on standard registry scanners.
- g. The first page of all documents must contain sufficient blank space to permit the registry of deeds to affix standard recording information to the document without obscuring any information contained in the document.
- h. Each register of deeds retains the discretion to record documents that do not fully comply with these formatting standards provided that the record created by the registry is legible and retrievable on standard registry computer systems.

XVII. HOMESTEAD

- 1. Both Names Acknowledged** – *(NEW)* On a declaration of homestead filed by a married couple, both spouses must sign the declaration and both signatures must be acknowledged.
- 2. Elderly or Disabled Homestead** - *(NEW)* In addition to all of the requirements listed in “Manner of Execution” below, an Elderly or Disabled Homestead shall also include the following: (1) a statement that the owner to be benefited is an elderly person or a disabled person; and (2) with respect to a declaration of homestead benefiting a disabled person: (a) an original or certified copy of a disability award letter issued to the person by the United States Social Security Administration; or (b) a letter signed by a physician registered with the board of registration in medicine certifying that the person meets the disability requirements stated in 42 U.S.C. 1382c(a)(3)(A) and 42 U.S.C. 1382c(a)(3)(C) as in effect at the time of recording; provided, however, that the award letter or physician’s letter shall be recorded with the declaration.
- 3. Manner of Execution** – *(NEW)* A declaration of homestead shall be in writing, signed and acknowledged under penalty of perjury by each owner to be benefited by the homestead, except as provided in clause (4). The declaration of homestead shall also comply with the following: (1) each owner to be benefited by the homestead, and the owner’s non-titled spouse, if any, shall be identified; (2) the declaration shall state that each person named therein occupies or intends to occupy the home as their principal residence; (3) if the home is co-owned by a married couple, whether in their names only or as co-tenants with others, and the home is the principal residence or is intended to be the principal residence of both spouses, a declaration under section 3 shall be executed by both spouses; and (4) if the home is owned in trust, only the trustee shall execute the declaration.
- 4. Not Created by Deed** – *(NEW)* A declaration of homestead shall not be created within a deed or other instrument vesting title in the owner.
- 5. Related Party Deeds** – *(NEW)* No deed between spouses or former spouses or co-owners who individually or jointly hold an estate of homestead under section 3 or 4 and no deed between a trustee and a trust beneficiary or between a life tenant and a remainderman shall terminate the homestead unless each co-owner, spouse, former spouse or trust beneficiary entitled to the benefit of the homestead has executed an express release thereof.
- 6. Termination of Homestead** – *(NEW)* An estate of homestead may be terminated by (1) a deed to a non-family member conveying the home, signed by the owner and a non-owner spouse or former spouse residing in the home as a principal residence as of the date of the deed; (2) a recorded release of the estate of homestead, duly signed and acknowledged by the owner and a non-owner spouse or former spouse residing in the home as a principal residence as of the date of the release; (3) the abandonment of the home as the principal residence by the owner, the owner’s spouse, former spouse or minor children, except that such abandonment shall terminate only the rights of the persons who have abandoned the home; provided, however, that no person in military service as defined in 50 U.S.C. appendix, section 511 shall be deemed to have abandoned the home due to such military service; (4) in the case of a home the title to which is held in trust, by either: (i) the execution of a deed or a release of

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homestead by the trustee; or (ii) action of a beneficial owner identified in the declaration, who is not a minor child, taken in the same manner as provided in clauses (2) and (3); or (5) the subsequent recorded declaration of an estate of homestead under section 3 on other property, except that such declaration shall terminate only the rights of the owner making such subsequent declaration and the rights of that owner's spouse and minor children who reside or intend to reside in the other property as their principal residence.

XVIII. LIENS

1. Judicial Authorization Required – *(NEW)* Unless specifically authorized by statute, no document that creates an involuntary encumbrance on the property of another shall be recorded unless it has been authorized by a judge.

2. Attachment – *(NEW, see also Appendix C)* An attachment is an order issued by a court in favor of a plaintiff in a lawsuit against the real estate of the defendant to ensure that if the plaintiff receives a judgment in the lawsuit, he will be able to collect it from the defendant's property. An allowed writ of attachment may only be recorded by a deputy sheriff, a constable, or by some other party specifically appointed by the court for that purpose.

3. Certified Copy of Complaint – *(NEW)* Unless specifically authorized by statute (as in the case of the perfection of a mechanics lien or a condominium association lien), a certified copy of a complaint may not be recorded at the registry of deeds unless it is specifically authorized by a judicial order.

4. Clerk's Certificate – *(Appendix C)* At any time after final judgment or a decree in favor of the defendant, or after the discontinuance, dismissal or other final disposition, the clerk of the court where such disposition is recorded shall upon demand give a certificate of the fact of such disposition. Such clerk's certificate may be recorded in the applicable registry of deeds.

5. Condominium Lien – *(NEW)* A condominium association has an automatic lien on a condominium unit to ensure the payment of condominium fees. The buyer of a condominium unit usually requires the seller to provide a statement from the condominium association in accordance with MGL c.183A, s.6D, stating that all condominium fees are paid (often called a "6D Certificate"). See also "Foreclosure of Condominium Lien").

6. Death – *(NEW)* When a person dies owning an interest in real estate, the Commonwealth has an automatic lien on the property to ensure payment of any estate tax that is due. In most cases, this lien can be resolved by the person in possession of the property recording an affidavit at the registry of deeds in accordance with Massachusetts General Laws c.65C, s.14.

7. Dissolution of Attachment – *(Appendix C)* An attachment shall be dissolved by a release signed and acknowledged by the plaintiff or by his executor, administrator or attorney of record and recorded in the registry of deeds, or by a certificate from the clerk of court in which the action was pending that the attachment has been dissolved or that the action has finally been determined. (MGL c.223, s.132).

8. Execution – *(NEW)* When a plaintiff recovers a money judgment in a lawsuit, the court issues an execution which is an order to the sheriff to seize the real estate of the defendant and use it to pay the

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debt to the plaintiff. An execution shall be recorded by the sheriff or by a constable and shall include the legal description of the property being seized on execution and the officer's return.

9. Execution Made Void by Operation of Law – (NEW) If a levy on execution shall not have been completed by set-off within six years from the date on which notice of the execution was deposited with the registry of deeds, the levy shall be void as to any land within such registry district unless within said six year period it shall be brought forward in such registry by written request of the plaintiff or his attorney which request shall be indexed and recorded at said registry upon the payment of the applicable recording fee.

10. Expiration of Attachment – (Appendix C) An attachment shall expire by operation of law six years from the date of recording at the registry of deeds unless the register of deeds shall, within said period and at the written request of the plaintiff or his attorney, bring forward such attachment. The request to bring forward said attachment must be in writing and signed by the plaintiff or his attorney. The request must be accompanied by the applicable recording fee and shall be recorded and indexed by the registry. Within six years of the date that such a request to bring forward was recorded, a second or subsequent request may also be recorded. (MGL c.223, s.114A).

11. Federal Court Judgments – (NEW) Federal judgments for the recovery of money or property require an Execution issued by a Federal District Court (Massachusetts District) and must be levied by a US Marshall or court approved process server. Judgments in favor of the US government may be perfected by the recording of a certified copy of the abstract of judgment. As a general rule, the enforcement of judgments issued by any federal court must follow the laws of the state where the judgment is to be enforced and must initially be registered in the Federal District Court (Massachusetts District) before enforcement can commence in Massachusetts.

12. Federal Tax Lien – (NEW) The Internal Revenue Service may record a lien against a person's real estate for the amount of unpaid federal taxes. Once the amount owed has been paid, the IRS will record a Release of Federal Tax Lien.

13. Homeowners' Associations – (NEW) Notwithstanding any language of a non-condominium homeowners' association agreement to the contrary, no document that purports to create a lien or encumbrance in favor of a homeowners' association shall be recorded without judicial authorization of the lien or encumbrance.

14. Judgments – (NEW) Certified copies of judgments affecting the title to real property issued by a Massachusetts state court or a Federal Bankruptcy Court (Massachusetts District) or a Federal District Court (Massachusetts District) are acceptable for recording, with a memorandum of the town where the land lies and a description thereof sufficiently accurate for identification if the record of the judgment or decree does not give those particulars. (MGL c 184 s 17) Judgments for monetary damages are not recordable and must be recorded in the form of an execution unless the judgment is in favor of the United States.

15. Lis Pendens – (7-7, Appendix C) When a lawsuit that may affect title to real estate is commenced, either party may request the judge to authorize a "notice of lis pendens" which means "suit pending." No lis pendens shall be recorded at the registry of deeds unless it (1) is part of an action commenced in a Massachusetts court or in a Federal Court (Massachusetts District); (2) contains the names of the parties to the proceeding, the court in which it is pending, the date of the writ or other commencement

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thereof, the name of the town where the affected real property lies and a description of such real property sufficiently accurate for identification; (3) has been endorsed by a justice of the court before which the action is pending; and (4) is accompanied by an affidavit to the effect that the moving party has served notice of the allowance of such motion by certified mail addressed to all other parties prior to the recording of the memorandum.

16. Massachusetts Tax Lien – (NEW) The Massachusetts Department of Revenue may record a lien against a person's real estate for the amount of unpaid state taxes. Once the tax has been paid, the DOR will record a Release of Massachusetts Tax Lien.

17. Mechanic's Lien – (NEW) A person who does work on or provides material for real property may obtain a lien without initial judicial authorization in accordance with MGL c.254. A mechanic's lien is created by recording a notice of contract and then a statement of account. The claimant must also commence a lawsuit within a set period of time. The procedure for obtaining a mechanic's lien is a complicated one. Please consult MGL c.254 for the specific requirements.

18. Medicaid Lien – (NEW) When a person receives Medicaid (often by going into a nursing home and having the state pay for his care), the Commonwealth has an automatic lien on that person's real estate. After the person dies, the Commonwealth is entitled to reimbursement for the cost of care from the value of the real estate.

19. Out of State Liens – (NEW) In general, a court or agency from outside of Massachusetts lacks jurisdiction to encumber real property located within Massachusetts, so liens, judgments, orders, executions, and other encumbrances from a foreign court or agency should not be recorded unless there is some Constitutional or statutory exception that specifically authorizes the recording of the proffered document.

XIX. MULTIFUNCTIONAL/MULTIPLE DOCUMENTS

1. Multiple Fees for Single Document - (NEW, but see 7-8) Any document that includes multiple references to more than one other document, intending or attempting to assign, discharge, release, partially release, subordinate or notice those other documents, shall be separately indexed and separately assessed an additional fee for each such reference.

2. Multiple Documents Attached as Exhibits – (7-9) A document that is otherwise recordable on its own (or a photocopy of such a document) shall not be recorded as an attachment to another document but must be recorded on its own as a separate document. Examples of document combinations that would be prohibited by this practice include, but are not limited to the following combinations: Deed + 6D Certificate, Deed + Trustee Certificate, Deed + Vote, Deed + Power of Attorney, Deed + Death Certificate, Mortgage + 6D Certificate, Mortgage + Collateral Assignment of Rents & Leases, Mortgage + Trustee Certificate, Affidavit re Estate Tax + Death Certificate. *An Attorney Affidavit filed in accordance with MGL c.183, s.5B is exempt from this section.*

XX. PLANS

1. Amended Plans – (6-7) (c.41, s.81X) No register of deeds shall accept for record a notice of modification, amendment or rescission of approval of a plan of a subdivision unless such notice contains a statement by the planning board that such modification, amendment or rescission does not affect any lot or rights appurtenant thereto in such subdivision which lot was conveyed or mortgaged in good faith and for valuable consideration subsequent to the approval of the subdivision plan.

2. Condominium Floor Plans – (NEW, but see 6-3) MGL c.183A, s.8 requires a master deed to include “a set of the floor plans of the building or buildings, showing the layout, location, unit numbers and dimensions of the units, stating the name of the building or that it has not a name, and bearing the verified statement of a registered architect, registered professional engineer, or registered land surveyor, certifying that the plans fully and accurately depict the layout, location, unit number and dimensions of the units as built.” However, for the required floor plans to be accurately and legibly reproduced on standard registry of deeds equipment, the floor plans should be presented for recording as plans printed on mylar material in accordance with the Plan Regulations contained herein, and not as a paper attachment to the master deed.

3. Municipal Lien Certificates & Subdivision Plans – (6-2) (MGL c.60, s.23). No definitive subdivision plan (i.e. any subdivision plan which does not contain the phrase “Approval not required” over the signature of the applicable Planning Board) shall be accepted for recording unless it is accompanied by a municipal lien certificate indicating that all taxes, assessments, and charges then assessed against the land shown on the plan have been paid in full.

4. Plan Attached to Document – (6-4) A copy of a plan that is to be recorded as an attachment to another document must be on white paper that is no smaller than 8.5inches by 11 inches and no larger than 8.5 inches by 14 inches. Plans recorded in accordance with this section are exempt from the registry’s plan regulations. A document with a plan attached shall not be considered to be a “multiple document” for the calculation of the recording fee for that document.

5. Plan Regulations – (Appendix B) No plan shall be recorded unless it complies with the following regulations:

1. **Size of Plan.** Plan sizes shall be a minimum of eight and one-half inches by eleven inches (8 1/2" x 11") and a maximum of twenty-four inches by thirty-six inches (24" x 36")

2. **Plan Material.** Plans being presented for recording shall be on linen or polyester film (“mylar”), single matte with a thickness of 3 mils (i.e., .003 inches), and must have an opacity so as to allow consistent computer scanning and Diazo and microfilm reproduction.

3. **Type of Ink.** All plans shall be prepared using a compatible ink with excellent cohesiveness which will produce a permanent bond and result in a plan with long term durability. All signatures must be in black India ink or its equal.

4. **Plan Reproductions.** Linen or polyester reproductions shall be accepted for recording provided they contain original signatures and comply with the other requirements for the recording of plans.

5. **Borders.** Each plan shall have three quarter inch (3/4") borders.

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6. **Size of Letters.** The minimum letter size on plans presented for recording shall be one-eighth (1/8") if free-hand lettering is used and one-tenth inch (1/10") if lettering guides are used.
7. **Graphic Scale.** Each plan presented for recording shall include a graphic scale.
8. **Recitations or Certifications.** Each plan shall have an area reserved to receive planning board recitation or contain a surveyors certification as per Chapter 380, Acts of 1966 (G.L. c. 41, s. 81x).
9. **"Registry Square."** Each sheet of each plan shall have a three and one-half (3 1/2") square
10. **Certification Clause.** Each plan must contain a certification clause signed by the person preparing the plan stating that he has conformed with the rules and regulations of the Registers of Deeds in preparing the plan.
11. **No Tape or Raised Print.** No tape adhesion or the like shall be placed on any plan presented for recording or registration. Plans presented for recording shall not contain any raised print.

6. Requirements for Recording – (6-6) No plan shall be recorded unless it (1) complies with the plan regulations of the registry of deeds; and (2) is either (a) endorsed by the planning board that such plan has been approved; (b) is endorsed by the planning board or its designee that approval of the plan is not required; (c) is accompanied by a certificate of the clerk of the city or town that the plan is deemed approved by reason of the failure of the planning board to act; or (d) contains a statement by a registered land surveyor that the plan contains no new lines.

7. Subdivision Control File – (6-1) (c.41, s.81X) Each registry of deeds shall maintain a Subdivision Control File in which shall be entered all notices related to the Subdivision Control Act sent by the boards within a city or town responsible for the implementation and enforcement of said act, including copies of the rules and regulations of such boards, a list of all board members and a list of individuals who are authorized to sign Approval Not Required plans. It is the responsibility of the respective boards of each city or town to forward this information to the registry of deeds.

XXI. PURCHASE AND SALE AGREEMENT

1. Recording Purchase and Sale Agreement – (Appendix C) No purchase and sale agreement shall be recorded unless the signature of at least one of the parties agreeing to sell the real estate has been acknowledged. MGL c.184, s.17A.

XXII. REDACTION

1. Redacting Portions of Documents – (7-10) – The register of deeds shall have the authority to redact any information from any document found to be recorded or presented to be recorded which does not meet the requirements of these standards or of any regulation or statute. MGL. c.66 and c.4.

XXIII. REGISTERED LAND

- 1. Application of Deeds Indexing Standards – (8-1)** These indexing standards shall apply to registered land as suggested methods of indexing documents. Any time a conflict exists between these standards and Land Court Guidelines, policies, practices or statutes, the Land Court procedures shall be followed.
- 2. Erroneous Recording of Registered Land – (7-4)** The customer is responsible for determining whether a document should be recorded in the registered land section or the recorded land section of the registry. If a document is recorded “on the wrong side,” the customer is solely responsible for taking the necessary steps to correct the erroneous recording.
- 3. Land Court Guidelines – (NEW)** Procedures and practices followed by the Registered Land Department of the registry of deeds are set by the Land Court, its memos, directives, and guidelines. *On Land Court homepage (<http://www.mass.gov/courts/court-info/trial-court/lc/>) see “Topics” section and select Registered Land Memos from Chief Title Examiner; Land Court Rules, Guidelines and Standards; and Land Court Rules and Standing Orders.*
- 4. Registered Land Explained – (NEW)** Massachusetts has two separate systems of recording documents related to the ownership of land. These two systems are known as recorded land and registered land. With registered land, the registry of deeds (operating as an office of the Massachusetts Land Court), issues a certificate of title to the owner of the property and annotates the certificate with the document number of any document that affects the property. Certificates of title are assigned sequential certificate numbers and they are placed in numbered books. Each registered land document is assigned a sequential document number. Registered land documents are not assigned book and page numbers as is the case with recorded land. Instead, registered land documents become associated with one or more certificates of title.

XXIV. SOCIAL SECURITY NUMBERS

- 1. Redaction of Previously Recorded Document – (2-2 with modifications)** Any time a social security number is discovered in a previously recorded document, the registry of deeds shall redact the number on the electronic (and on any paper) versions of the document that are available to the public.
- 2. Social Security Numbers Not Recorded – (2-1 with modifications)** No document containing a social security number shall be accepted for recording unless the entire number or all but the last four digits is redacted.
- 3. Tax Liens; Redaction of Social Security Numbers – (NEW)** Current IRS Directives require that the last four digits of a social security number on a Federal Tax Lien or related document must be preserved and not fully redacted.

XXV. TIME OF RECORDING

1. Deemed to be Recorded – (*NEW*) A document is deemed to be recorded at the moment that the register of deeds assigns to the document an instrument number, or a book and page number, as the case may be. (MGL c. 36, s.14b).

XXVI. TRUSTS

1. Certificate of Trust – (*5-2*) A certificate sworn to or stated to be executed under the penalties of perjury, and in either case signed by a person who from the records of the registry of deeds or of the registry district of the land court, for the county or district in which real estate owned by a nontestamentary trust lies, appears to be a trustee thereunder and which certifies as to: (a) the identity of the trustees or the beneficiaries thereunder; (b) the authority of the trustees to act with respect to real estate owned by the trust; or (c) the existence or nonexistence of a fact which constitutes a condition precedent to acts by the trustees or which are in any other manner germane to affairs of the trust, shall be binding on all trustees and the trust estate in favor of a purchaser or other person relying in good faith on the certificate. The certificate most recently recorded in the registry of deeds for the county or district in which the real estate lies shall control. (see MGL c.184, s.35).

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To be added once standards are finalized.