

**V.R.C.P. 80.6**

**(b) - Defendant's Information:**

1. Officer must make reasonable inquiry of defendant's address
  - a. ask if the address on the license is the correct address
    - i. if not then inform defendant must provide actual address
    - ii. If the person refuses use the address on the license as all that is required is reasonable inquiry
  - b. corporate address:
    - i. registered with secretary of state;
    - ii. registered with DMV;
    - iii. registered with USDOT;
    - iv. Registered with Interstate Commerce Commission;
    - v. Home state jurisdiction registered address; or
    - vi. Reasonably calculated to give defendant notice.
2. Active military duty
  - a. The rule only requires that you inquire – confirmation unnecessary
    - i. If a person refuses to respond you have still fulfilled the rule

**V.R.C.P. 80.6(c) - Summons & Complaint:**

1. By filing with the Judicial Bureau; or
  - a. Must serve upon Defendant within 30 days of filing with Judicial Bureau
2. By serving upon Defendant
  - a. Must file with the Judicial Bureau within 30 days of service upon Defendant
3. If Defendant is a corporation complaint shall be served
  - a. In person; or
  - b. First class mail to owner, agent, or officer (president, secretary, treasurer)
4. Form – eTicket
5. Defendant shall answer the summons & complaint within 21 days after service upon Defendant – see also **4 V.S.A. § 1105(b)**
  - a. Service is either in person at the time ticket was issued; or
  - b. 30 days after filing with Judicial Bureau
6. Hearing officer cannot review complaint unless:
  - a. Issuing officer's signature is omitted;
  - b. Violation conduct is omitted;
  - c. Inconsistency between:
    - i. Violation code and statute;
    - ii. Violation code and waiver penalty;
    - iii. Violation code and point assessment;
    - iv. Statute and waiver penalty;
    - v. Statute and point assessment; or
    - vi. Waiver penalty and point assessment.
  - d. Other omission rendering complaint defective
  - e. Hearing officer may then:
    - i. Void complaint without prejudice in a written entry;
      1. Judicial bureau clerk shall notify the issuing officer of the reason for voiding

2. Officer must file new complaint;
  3. Complaint shall be served on Defendant at last known address as ascertained consistent with above
  4. If complaint is voided a second time for the same reason then is shall be voided with prejudice.
- ii. Allow the issuing officer to amend the complaint;
  - iii. Accept complaint as justice requires
- f. All complaint inconsistencies related to waiver penalties or points shall be resolved in favor of defendant
  - g. Officer issues a subsequent amended complaint
    - i. If officer fails to serve Defendant amended complaint hearing officer shall void the complaint without prejudice
      1. Judicial bureau clerk shall notify the issuing officer of the reason for voiding
      2. Officer must file new complaint;
      3. Complaint shall be served on Defendant at last known address as ascertained consistent with above
      4. If complaint is voided a second time for the same reason then is shall be voided with prejudice.
  - h. Original complaint is illegible
    - i. Hearing officer shall void the complaint without prejudice
      1. Judicial bureau clerk shall notify the issuing officer of the reason for voiding
      2. Officer must file new complaint;
      3. Complaint shall be served on Defendant at last known address as ascertained consistent with above
      4. If complaint is voided a second time for the same reason then is shall be voided with prejudice.

**V.R.C.P. 80.6(d) – Motions; Discovery; Subpoenas; Hearings**

1. Motions – **(d)(1)** – are only allowed with permission from the hearing officer.
  - a. A party must file a motion asking for permission to file a motion
    - i. If a Defendant does not do so first, then file a motion to dismiss Defendant’s motion for failure to follow V.R.C.P. 80.6(d)(1)
2. Discovery – **(d)(1)** – is not permitted without permission of the hearing officer
3. Hearing notices: – **(d)(2)** –
  - a. Shall be sent by the Judicial Bureau clerk:
    - i. To the issuing officer’s department or agency as set forth in the complaint;
    - ii. The state’s attorney if they entered their appearance;
    - iii. Defendant; and
    - iv. Defendant’s attorney if applicable.
  - b. Hearing notice shall contain the time, date, and location of the hearing.
    - i. If the notice does not contain this information file a motion with the bureau to provide sufficient notice
4. Continuances: – **(d)(2)** –
  - a. May be made ex parte or after judicial bureau consults with non-moving party:
    - i. Prior to the hearing; or

- ii. At the hearing
- b. Good cause must be shown
  - i. Largely undefined (ask audience)
  - ii. A public records request to circumvent 80.6 discovery rules is not good cause, Shlansky v. City of Burlington, 2010 VT 90.
  - iii. May be granted or denied by judicial bureau clerk if hearing officer is not available within time necessary to make and communicate the decision
  - iv. Judicial bureau clerk shall send notice of a grant of continuance to the non-moving party
- 5. Subpoenas – (d)(3) –
  - a. Discovery – duces tecum (bring with you)
    - i. Must obtain permission from hearing officer - **V.R.C.P. 80.6(d)(1)**
  - b. Command to court
    - i. Not discovery
  - c. **V.R.C.P. 45** - Subpoena
    - i. Must include:
      - 1. Name of court – Judicial Bureau
      - 2. Title of action – State v. (Defendant)/(Ticket Number)
      - 3. Name of court in which the action is pending – Judicial Bureau
      - 4. Civil action number – no such number issued by court but use Ticket Number
      - 5. Date, time, and place specified; and
      - 6. A command to attend:
        - a. To give testimony
        - b. To present the thing you were commanded to bring – duces tecum
        - c. To permit inspection of a premises
          - i. Also discovery and need hearing officer permission beforehand
    - ii. Court, clerk, magistrate, or attorney may issue
      - 1. State’s Attorney may issue
    - iii. Service
      - 1. Discovery subpoena must be served on all parties at the same time it is being served on the person to whom it is directed
      - 2. Appearance subpoenas need not be so served
        - a. Must tender the person fees and mileage allowed by law to attend
          - i. Milage - state rate
      - 3. Person must be 18 years of age
      - 4. May be served anywhere in the state
      - 5. Proof of service
        - a. Filed with clerk when necessary
        - b. Must include:
          - i. Date of service
          - ii. Manner of service
          - iii. Name of person served
          - iv. Certified by person who made service
    - iv. Protection of persons Subject to Subpoenas

1. The party issuing the subpoena must take reasonable efforts to avoid imposing undue burden or expense on the person subject to the subpoena
  - a. Judicial Bureau may impose sanctions for violation
    - i. May include, but not limited to, lost earnings and attorney's fees
2. Duces tecum
  - a. Person need not appear with the thing unless commanded to do so
3. Person may object within 14 days after service
  - i. If objected to the thing need not be provided
  - ii. Until ordered to do so by the Judicial Bureau
  - iii. Party who issued subpoena may then move to compel discovery
4. Upon motion, subpoena may be quashed or modified by hearing officer, if:
  - a. Subpoena did not allow reasonable time for compliance
  - b. Subpoena requires disclosure of privileged or other protected information and no exception or waiver applies
    - i. Use of public records act to circumvent Judicial Bureau discovery rules; see Shlansky (1 V.S.A. § 317(c)(14) - excludes from discovery any documents relevant to litigation to which a public agency of a party of record.)
  - c. Subpoena subjects a person to undue burden
  - d. Subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information (Discovery)
    - i. Radar/Lidar detectors?
  - e. Subpoena requires disclosure of unretained expert's opinion (Discovery)
  - f. Subpoena requires disclosure of irrelevant facts an unretained expert relied upon in rendering an opinion (Discovery)
    - i. unless requested by a party
  - g. Subpoena requires non-party to incur substantial expense to travel more than 50 miles
    - i. Judicial Bureau may impose conditions intended to address any undue hardship
5. Failure to comply with subpoena or discovery order may result in exclusion of evidence, continuance of the hearing, or dismissal of the ticket
- v. Responses to Subpoena
  1. Duces tecum
    - a. Documents shall be produced as kept in the usual course of business or organize and label them to correspond to the demand
    - b. If electronic and no form for production is specified, then an electronic copy in the form maintained by the subject of the subpoena or one that is reasonably usable but not in more than one form, unless requested information is not reasonably accessible because of undue burden
      - i. Person from whom the electronic discovery is demanded must show that it is not reasonably accessible because of undue burden
      - ii. Judicial Bureau may still order discovery and specify conditions unless the benefit of the discovery is outweighed by the undue burden (V.R.C.P. 26(b)(1))

- c. If a party claims demanded information is privileged or otherwise subject to protection from discovery, then the objecting party must raise the claim with specificity sufficient for the nonmoving party to contest the claim.
- d. If a party claims that demanded information is privileged or otherwise subject to protection from discovery and that information has already been disclosed then the receiving party must promptly return, sequester, or destroy the information specified, to include any copies made, and inform any other person to whom they have disclosed the information of the claim.
- e. A party claiming that demanded information is privileged or otherwise subject to protection from discovery must preserve that information.
- vi. Contempt – failure by any person to obey a subpoena in a manner consistent with the Rule and without adequate excuse may be held in contempt of court
- vii. Subpoena for Interstate Discovery/Procure out-of-state witness
  - 1. Each state has their own rules and there are federal rules that also may apply
    - a. Must look up the other state’s rules
      - i. If there is not rule in the other state then look at federal rule for interstate discovery

6. Trial Procedure - V.R.S.C.P. 6, V.R.C.P. 80.6(d)(4)

- a. Summary hearings
  - i. Informal and quick
- b. Venue – in Superior Court where violation is alleged to have occurred – **4 V.S.A. § 1103**
- c. Hearing shall be to a hearing officer - **4 V.S.A. § 1106(b)**
- d. Hearing shall be conducted in impartial manner - **4 V.S.A. § 1106(b)**
- e. Hearing officer may: - **4 V.S.A. § 1106(b)**
  - i. Compel attendance and testimony of witnesses by subpoena
  - ii. Compel production of books and records by subpoena
  - iii. Preside remotely by audio or video and require all parties, witnesses, and other persons to participate remotely – **V.R.C.P. 43.1**
    - 1. When remote hearing has been scheduled an in-person hearing may be granted upon motion in consideration of:
      - a. Whether the locations involved can meet the court’s technical capabilities
      - b. Whether the remote technology allows adequate ability to allow all participants to hear/see the proceeding and to speak if necessary
      - c. Whether statements made and evidence show will be recorded as a part of the record of the proceeding
      - d. Whether the locations involved have adequate airflow
      - e. Health, safety, and convenience of the parties, jurors, court personnel, counsel, and proposed witnesses as well as those dependent upon or reside with them
      - f. Whether conditions can be imposed to protect public health
      - g. The importance, complexity, and nature of the proceeding or testimony
      - h. Expected duration of the proceeding or witness’s testimony
      - i. Cost of producing a witness in person in relevance to the importance of the offered testimony
      - j. Time and expense of associated travel

- k. Whether the movant attempted to procure physical presence of the witness
  - l. Whether a witness or other participant is incarcerated or otherwise institutionalized
  - m. Whether satisfactory provision can be made for confidential communications between lawyers and their clients or witnesses
  - n. Whether a witness can be satisfactorily identified and whether the oath can be administered in a manner consistent with Vermont law
  - o. Whether the procedure will allow full and effective examination and cross-examination, including access to any tangible evidence necessary to allow full and effective examination and cross-examination
  - p. Whether undue prejudice would result to any party or witness
  - q. Whether conditions may be imposed to ensure the fairness of the proceeding and reliability of the evidence
  - r. Whether the proceeding involves a matter of public interest and whether public access can be adequately provided either in-person or remotely
  - s. Whether video proceeding is feasible, technically or financially, in determining whether audio proceeding is permissible
  - t. Any other factors the court may deem relevant.
- f. Prosecution has burden of proof by clear and convincing evidence - **4 V.S.A. § 1106(b)**
- i. Clear and convincing = highly probable
- g. All witnesses shall testify under oath - **V.R.S.C.P. 6(a)(3)**
- h. Hearing officer may examine witnesses with objective of laying out the evidence pertaining to the contentions reasonably available to the parties - **V.R.S.C.P. 6(a)(3)**
- i. Hearing officer may limit examination or cross-examination to protect against unfair imposition and to avoid needless repetition **V.R.S.C.P. 6(a)(3)**
- j. Evidence – shall be of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs
- i. Hearsay is admissible as long as it has an indicia of reliability
  - ii. Vermont Rules of Evidence inapplicable except for those governing privilege
  - iii. Certified copies of records from DMV or Agency of Natural Resources are admissible without testimony from either agency - **4 V.S.A. § 1106(b)**
- iv. Municipal Ordinance - **V.R.C.P. 80.6(d)(5)** - must be produced at the hearing
- 1. Photocopy of certified ordinance
    - a. A proper ordinance should state the following:
      - i. The portion of the municipal charter and/or the statute that empowers the municipality to set its own speed limits (Section “X” of the “town name” municipal charter and Title 23, Sections 1007 & 1008)
      - ii. The selectboard (or other municipal legislative body) held a public hearing on “date”
      - iii. Adopted without (or “with”) amendment the following ordinance (or “amendment to the following ordinance”)
      - iv. We advise that it include “on the basis of an engineering and traffic study” or “on the basis that it is an unpaved road and having considered

- neighborhood character, abutting land use, bicycle and pedestrian use, and physical characteristics of the highway
- v. Section of highway where the lower limit applies
  1. Should be something anyone would recognize
  2. Street addresses suffice but the post office can change them
  3. Local landmarks have been upheld – State v. Page. 142 Vt. 522 (1983)
  4. We suggest latitude and longitude from Google earth or similar
- vi. The speed limit
- b. Certified as genuine
  - i. Legible with date of certification
  - ii. We advise that the clerk print or type their name as well as their title
- 2. **23 V.S.A. § 1007**
  - a. Must be based on engineering and traffic investigation
    - i. Unless after considering neighborhood character, abutting land use, bicycle and pedestrian use, and physical characteristics of the highway
      1. If so, then no more than 50 MPH and no less than 35 MPH
  3. If based on engineering and traffic investigation not less than 25 MPH
    - a. Unless within a designated downtown development district
  4. If speed limit on all unpaved town highways set to 35 MPH, then signs must be posted at points of change in speed limits
  5. Lack of evidence of engineering and traffic investigation does not invalidate lower speed limits so long as at least five years has lapsed since the limit took effect
- v. State or Federal Regulation - **V.R.C.P. 80.6(d)(6)** - must be produced at the hearing
  1. Published copy
- k. Prosecution may be issuing law enforcement officer (LEO), State’s Attorney, Municipal Attorney
  - i. Must identify self after placed under oath
    1. LEO:
      - a. Name
      - b. Department or agency
      - c. Certified LEO since “date”
      - d. We advise include training relevant to alleged offense, such as use of Radar/Lidar
      - e. We advise include activities, such as conducting trainings as well as advisory panels/boards, that are relevant to the alleged offense
    - ii. Date/time working
    - iii. Place you were working
    - iv. What were you doing
    - v. What drew your attention to defendant
      1. Describe motor vehicle
      2. Relevant details
      3. What you did in response
      4. How you identified defendant
      5. Other relevant information

- vi. Elements of the offense:
  - 1. Date
  - 2. Defendant
    - a. Point defendant out and describe place in court as well as appearance and attire
    - b. Ask court to note identification for the record
  - 3. Operated
  - 4. A motor vehicle
    - a. Describe motor vehicle
    - b. May include farm tractor - **23 V.S.A. § 602**, see also State v. Haselton, unreported case – if used as means of transportation as opposed to for farming
    - c. Boom lift – State v. Smith, 2011 VT 83
  - 5. On a public highway
    - a. Definitions – **23 V.S.A. §§ 4(13) – Highway, public highway, or public road**
      - i. A way open temporarily or permanently to the public or general circulation of vehicles, including but is not limited to:
        - 1. All parts of bridges
        - 2. Culverts
        - 3. Roadways
        - 4. Streets
        - 5. Squares
        - 6. Fairgrounds
        - 7. Any way laid out under authority of law
        - 8. Frozen waterway – State v. Hallock, 114 Vt. 292 (1945)
        - 9. Public parking lot – State v. Bromley, 117 Vt. 228 (1952)
        - 10. Pull off – State v. Trucott, 145 Vt. 274 (1984)
  - 6. In violation of “statute” or “ordinance”
    - a. Set forth what the statute commands; i.e. “speed not to exceed”
  - 7. Evidence of offense
    - a. If speeding:
      - i. Include certification of radar/lidar instrument
      - ii. Include tested and confirmed operation of radar/lidar instrument without defect prior to and after specific use
        - 1. Method for testing
      - iii. We advise estimate that defendant was operating
      - iv. Contrary to the statute, some hearing officers have found that **23 V.S.A. § 1007** does not apply to 50 MPH zones
        - 1. Use basic rule speed limit under **23 V.S.A. § 1081**
    - b. Photo or video (always bring all your evidence)
      - i. Consider whether discovery was permitted
        - 1. If so, was it provided to defendant
        - 2. Did the hearing officer order it at the hearing (objection – fairness to defendant – if not already provided, violates summary nature of proceeding through delay and use of Judicial Bureau time)



- ii. Steps to admit photo or video evidence (can use this for any piece of evidence)
  - 1. I would like to enter into evidence what has been marked as State's Exhibit [number]
  - 2. On the date in question, I was issued a [body worn camera, cruiser equipped with a video recording device, camera, photo app on phone] and it was operating properly
  - 3. The (device) recorded "evidence"
  - 4. I have reviewed the recording
  - 5. The recording is a fair and accurate copy of the events captured
  - 6. Move to admit
- c. Municipal ordinance
- l. Hearing officer's findings shall be on the record, unless more time is necessary to render then may be made in writing at a later date - **4 V.S.A. § 1106(c), V.R.C.P. 6(a)(4)**
- m. Hearing officer may find that defendant has committed a lesser included violation - - **4 V.S.A. § 1106(c)**
- n. If hearing officer finds defendant committed a violation then the hearing officer shall consider defendant's ability to pay prior to imposing a penalty - **4 V.S.A. § 1106(c)**
- 7. Default – **V.R.C.P. 80.6(e)** - unless ticket has been dismissed:
  - a. If defendant fails to answer complaint after 21 days clerk shall enter default judgment, see also **4 V.S.A. § 1105(f)**
    - i. No motion necessary by prosecution
  - b. If defendant fails to appear at duly noticed merits hearing, the hearing officer may:
    - i. Prosecution must declare, under penalty of perjury, setting forth facts showing defendant is not in military service as defined by 50 U.S.C. § 3911(2) (active duty, active service, absent from duty due to illness, wound, leave or other lawful reason.)
    - ii. Proceed to merits without defendant;
    - iii. Or enter default judgment;
      - 1. No additional notice of default to defendant is required for hearing officer to enter judgment.
    - iv. Default judgment effective upon service on defendant by first class mail
    - v. Default on municipal ordinance the fine amount must be the full penalty amount – **24 V.S.A. § 1979(c)**
    - vi. Default may be set aside by the clerk pursuant to **V.R.C.P. 60**
      - 1. Clerical mistakes - **V.R.C.P. 60(a)**
        - a. Mistakes by Judicial Bureau in judgment
        - b. Minor errors such as the wrong amount and only to correct the error
          - i. Not for disagreement with the judgment – that's appeal
          - ii. Errors that affect substantial rights of the parties are beyond the scope
        - c. Does not extend appeal window
      - 2. **V.R.C.P. 60(b)**
        - a. Mistake, inadvertence, surprise, or excusable neglect
          - i. Not to protect a party from tactical decisions
          - ii. Must be consistent with the Rules

- iii. Failure to avoid must be justifiable
      - iv. Movant must have not been able to protect against
      - v. To prevent hardship or injustice
      - vi. Neglect by former attorney
      - vii. Hearing officer to consider danger of prejudice, length of delay, and good faith of movant
    - b. Newly discovered evidence
      - i. Due diligence
    - c. Fraud, misrepresentation, or other misconduct of a party
    - d. Void judgment
    - e. Judgment has been satisfied, released, or discharged
      - i. Prior judgment that is the basis for default has been reversed or vacated
      - ii. Future enforcement of the judgment is no longer equitable
    - f. Any other justifiable reason
      - i. to prevent hardship or injustice
      - ii. Cannot use to replace reasons 1-5
  - 3. Motion must be made within a reasonable time
    - i. But not more than 1 year after judgment if reasons 1, 2, or 3;
    - ii. Not more than 6 months after judgment if reasons
    - iii. Unless there was a fraud upon the court
8. **Dismissal - V.R.C.P. 80.6(f)**
- a. Prior to hearing
    - i. Municipal complaint
      - 1. Issuing officer
    - ii. All other complaints
      - 1. Issuing officer with approval of supervisor
  - b. On hearing date
    - i. Issuing officer with approval of supervisor
  - c. State's Attorney or municipal attorney may dismiss:
    - i. Prior to defendant's failure to answer complaint
    - ii. Prior to date of hearing
  - d. Judicial Bureau Clerk
    - i. If service is not completed within 40 days of filing
    - ii. If complaint is not filed within 30 days after service on defendant
  - e. Hearing Officer
    - i. If officer fails to appear at hearing without grant of continuance
    - ii. If no adjudication within 2 years after filing complaint, after notice to issuing officer and hearing on issue, unless good cause shown for continuance
    - iii. If dismissal will serve the interests of justice, after notice to issuing officer and hearing on issue
  - f. All dismissals hereunder are with prejudice, except if made by State's Attorney or municipal attorney which may be without prejudice as part of settlement agreement with defendant
9. **Admissions - V.R.C.P. 80.6(g)**

- a. Unsigned or incomplete answer accompanied by at least partial payment of the penalty mailed to judicial bureau shall be deemed an admission – see also **4 V.S.A. § 1105(d)**
- b. Failure to answer, admission by answer, or other form of admission of merits of complaint are inadmissible in civil or criminal proceedings except as to validity or fact of a suspension
- c. Defendant’s record of prior violations may be considered by hearing officer in determining appropriate fine or penalty

10. Entry of Judgment - V.R.C.P. 80.6(h)

- a. Hearing officer’s findings and judgments shall not be entered until delivered to the parties by first class mail
- b. Payment of fines, restitution, or costs is stayed pending appeal that has been filed

11. Appeal - V.R.C.P. 80.6(i)

- a. Any party may file judicial bureau notice of appeal to criminal division within 30 days of entry of judgment
- b. Judicial bureau clerk serves copy of notice of appeal upon the parties
- c. Hearing officer may extend time to file appeal
  - i. If appellant files motion to extend within 30 days of entry of judgment; and
  - ii. Upon showing of excusable neglect or good cause.
  - iii. May be filed ex parte if within 30 days unless hearing officer requires otherwise
    - 1. If filed past the 30 day limit then service on nonmoving party is required consistent with V.R.C.P. 25(b).
  - iv. No extension of time may exceed 30 days beyond initial 30 days to appeal, or 14 days after grant of extension of time, whichever is later.
- d. Appeals are:
  - i. On the record (default rule)
  - ii. De Novo
    - 1. **V.R.C.P. 80.6(d), (e), (f), & (g)** apply to the extent applicable
      - a. Discovery and pretrial motions allowable at discretion of criminal division
      - 2. Only for defendant and only if specifically requested
      - 3. Before court unless defendant specifically requests a jury
  - iii. Criminal division appeals to the Supreme Court
    - 1. Subject to permission of the Supreme Court
- e. State’s Attorney shall represent the State - **4 V.S.A. § 1107(c)**
- f. State’s Attorney, municipal attorney, or other designee appointed by the municipality legislative body shall represent a municipality - **4 V.S.A. § 1107(c)**
- g. Certification of judgment of criminal division
  - i. 14 days after entry of judgment and no appeal has been filed to Supreme Court; or
  - ii. 7 days after denial of permission to appeal from Supreme Court
  - iii. As if it occurred in Judicial Bureau and never was in Criminal Division

12. Pending criminal charges

- a. Officer or State’s Attorney informs judicial bureau that alleged violation arises from same evidence as a criminal charge pending against defendant then:
  - i. Judicial bureau shall not schedule a civil action unless requested by:
    - 1. Issuing officer
    - 2. State’s Attorney, or

3. Defendant

13. Minors V.R.C.P. 80.6(l)

- a. Within 14 days after complaint is filed by issuing officer the clerk shall deliver by first class mail to legal guardian at last known address if known, or to defendant's address if unknown:
  - i. Copy of summons and complain: or
  - ii. In form created by court administrator:
    1. Brief description of alleged violation
    2. Municipality where alleged violation occurred
    3. Date of alleged violation
    4. Name of issuing officer; and
    5. Issuing officer's department or agency
  - iii. Failure of clerk to give notice shall not result in dismissal of the complaint
- b. If minor defendant denies charge then notice shall be provided to legal guardian of hearing and subsequent hearings consistent with Rules

14. Applicable Rules of Civil Procedure

- a. The following rules do not apply:
  - i. V.R.C.P. 3 (commencement of action), 4, 4.3 (process), 7(a) (pleadings allowed; form of motions), 8 (general rules of pleading), 9 (pleading special matters), 10(b) (form of pleadings), 12 (defenses and objections), 13 (counterclaim and cross-claim), 14 (third party practice), 16.1 (complex actions), 16.3 (alternative dispute resolution), 18-24 (joinder of parties), 40(a)-(d) (calendar, continuances), 41 (dismissal of actions), 43.1 (participation or testimony by video or audio), 53 (masters), 55 (default), 56 (summary judgment), 57 (declaratory judgment), 62 (stay), 64 (replevin), 65 (injunctions), 66 (receivers), 67 (deposit in court), 68 (offers of judgment), 70-76 (judgments, process, appeals), 80.1-80.2 (mortgage foreclosure and naturalization), 80.4 (habeas corpus), 80.5 (civil suspension for DUI), and 80.7 (procedures for immobilization and forfeiture).
- b. All other Rules of Civil Procedure apply to the extent consistent with the summary nature of the proceedings intended by the legislature
  - i. If inconsistent with summary nature of proceedings then the hearing officer may order a different procedure be followed
- c. Rules of Civil Procedure to be followed by Criminal Division at appeal:
  - i. Always apply: V.R.C.P. 38 (jury trial of right), 39 (trial by jury or court), 47 (jurors), 48 (juries of less than 12), 49 (special verdicts and interrogatories), 50 (judgment as a matter of law, alternative motions for new trial, conditional rulings), and 51 (argument, jury instructions)
  - ii. Apply when permission for discovery is granted: V.R.C.P. 26 (general provisions governing discovery), 27 (discovery before action or pending appeal), 28 (persons before whom depositions may be taken), 29 (stipulations regarding discovery procedure), 30 (depositions upon oral examination), 31 (depositions upon written questions), 32 (use of depositions in court proceedings), 33 (interrogatories to parties), 34 (production of documents and things and entry upon land for inspection and other purposes), 35 (physical and mental examination of persons), 36 (requests for admission), and 37 (failure to make discovery: sanctions).
  - iii. In conflicts between Rule 80.6 and other rules, Rule 80.6 shall apply.