

ARTICLE 9 ADMINISTRATION & ENFORCEMENT

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9.1 Zoning Administrator, Development Review Board and Planning Commission

9.1.1 Zoning Administrator (ZA)

- A. These Regulations shall be administered and enforced by a Zoning Administrator (“ZA”), nominated for a three (3) year term by the Planning Commission and appointed by the Selectboard. The Zoning Administrator may be removed from office for cause by the Selectboard after consultation with the Planning Commission. The Zoning Administrator shall be compensated in an amount established by the Selectboard.
- B. The Zoning Administrator shall administer these Regulations literally, and strictly, according to the plain meaning of its terms, and shall have no authority to permit land development that is not in conformance with these Regulations. In addition, the Zoning Administrator shall administer these Regulations uniformly. The Zoning Administrator shall make reasonable inspections as he or she deem necessary to determine compliance and shall maintain a full and accurate record, available to the public, of all applications and fees received; permits issued, denied and appealed; inspections made; and reported violations.
- C. In the absence or disability of a Zoning Administrator, or in case of a conflict of interest, an acting Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard. The acting Zoning Administrator is empowered in the same manner as provided in (1) and (2) of this Section.

9.1.2 Development Review Board (DRB)

- A. The DRB shall consist of not less than five (5) nor more than nine (9) members, the numbers and terms of appointment to be determined by the Selectboard. Members of the DRB shall be appointed by the

Selectboard. ~~The DRB may consist of members of the Planning Commission.~~ Vacancies also shall be filled by appointment of the Selectboard for unexpired terms and upon expiration of terms. Any member of the DRB may be removed for cause by the Selectboard upon notice of written charges and after a public hearing.

- B. The DRB shall have the following duties:
 - 1. To hear and decide upon applications for appeals of decisions by the Zoning Administrator.
 - 2. To hear and decide upon applications for requests for variances and waivers.
 - 3. To hear and decide upon applications for conditional use review.
 - 4. To review and decide upon applications for site plan review.
 - 5. To review and decide upon applications for access by right-of-way for lots without frontage.
 - 6. To review and decide upon applications for subdivision review.
 - 7. Any other reviews as required in these Regulations.
- C. The Board shall adopt Rules of Procedure and an Ethics Policy regarding conflicts of interest to guide its official conduct in accordance with the requirements of the Act (§ 4461) and Vermont’s Open Meeting Law (1 V.S.A. §§ 310-314).

9.1.3 Planning Commission (PC)

- A. The Planning Commission shall consist of not less than five (5) nor more than seven (7) elected members in accordance with the Act (Sections 4321-4323). The Planning Commission shall:
 - 1. Prepare amendments to these Regulations and other regulations as permitted by the Act.
 - 2. Prepare and update the Town Plan every eight (8) years and prepare amendments to the Plan as necessary.
 - 3. Have party status to respond to projects reviewed under “Act 250,” “Section 248” and “Section 248a.”

9.2 Fees for Zoning Permits, Public Hearings, and Administration

- A.** Upon submission of an application for a Zoning Permit or DRB approval, applicant shall pay application fee(s) as established by the Selectboard. Such fee(s) shall include the costs of publication, public hearings, site visits, and for periodic inspections by town employees or consultants during the installation of public improvements. Fees will be collected by the office of the ZA and must be paid for applications under these Regulations to be considered complete. Fees are non-refundable.

9.3 Combined Review

- A.** Where more than one approval is required from the DRB, project review, to the extent feasible, shall be conducted concurrently pursuant to 24 V.S.A. Section 4462.
- B.** Municipal review, to the extent possible, shall be coordinated with applicable state reviews, and/or conditioned on securing all necessary state permits.

9.4 Public Hearing/**Public Notice Requirements for Development Review Board DRB Approvals**

A. Public Hearings

1. The following land development applications require public hearings before the DRB. Specific duties are indicated in **Section 8.1(B) (Development Review Board)** and **Section 8.1(C) (Planning Commission)** above.
 - a.** Conditional Uses
 - b.** Variances
 - c.** Minor & Major Subdivisions
 - d.** Site Plan Reviews

- e.** PUDs (in conjunction with a Subdivision and/or Site Plan).
 - f.** Appeals of ZA decisions
 - g.** Review of right-of-way or easement for land development without frontage (**Section 7.11(A) (2), Frontage Requirement**) in association with a subdivision or site plan.
2. All hearings for land development applications above shall be noticed, pursuant to 24 V.S.A. Section 4464, not less than 15-days in advance of the hearing by:
 - a.** Publication in a newspaper of general circulation.
 - b.** Posting of notice at the Georgia Municipal Building; posting in view from the public right-of-way most nearly adjacent to the property for which the application is made; and posting at the Georgia Public Library ~~and/or Georgia Post Office~~; and
 - c.** Mailing notice (regular US mail) to applicant and all adjacent property owners, including those across rights-of-way.
 - d.** Mailing notice (regular US mail) to all property owners on a shared private right-of-way whether or not they abut the subject parcel.
 3. Applicants for land development shall be responsible for supplying an accurate list of all adjacent property owner names and mailing addresses for respective hearings. Failure to provide the materials in a timely manner may result in delay of the public hearing.
 4. The ZA or responsible party, as applicable, shall ensure that all notices required above are made in a timely manner. Applicants are responsible, after being provided the actual notice form by staff, for posting the notice in view from the public right-of-way most adjacent to the property for which the application is made, as required above. Where applicants fail to do so in a timely manner, the DRB reserves the right to cancel and reschedule public hearings.

5. Remaining provisions of 24 V.S.A. Section 4464, regarding public notice for hearings shall apply.

9.5 Decisions

- A. Any action or decision of the DRB shall be taken by the concurrence of a majority of the members of that Board. In accordance with 24 V.S.A. Section 4464(b), the DRB shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective on the 46th day. Copies of any DRB decision shall be sent, within the forty-five (45) day period, to:
 1. The appellant (by certified mail).
 2. Every person(s) who have declared interested party status either by signing the check in form at the meeting or declared interested party status through the on-line meeting platform. Every person or party who appeared and was heard at the hearing.
 3. The Zoning Administrator; and
 4. The Town Clerk for filing as part of the public records of the Town.

- B. **Bonding or Other Surety.** The DRB may require a performance bond or other form of surety to ensure the completion and maintenance of required improvements related to an approved project. This may include adequate stabilization and/or protection of public facilities that may be affected by a project. The amount and form of such surety shall be subject to the approval of the Selectboard based upon the subdivider's estimate, bids or other information deemed necessary by the DRB and/or Selectboard. In no case shall the surety exceed 150% of the projected improvement and maintenance costs. The surety shall be released only when the conditions have been satisfied in the judgment of the Selectboard.

9.6 Reconsideration

- A. At the request of the applicant or interested parties, or on its own motion, the DRB may reopen a public hearing for reconsideration of findings, conclusions, or conditions of the decision. A request by the applicant or interested parties must be submitted to the ZA Office within the 30-day appeal period in accordance with [Section 8.7\(B\)](#).
- B. To reopen a hearing on its own motion, the DRB must approve such a motion within the 30-day appeal period.
 1. In order to reopen a public hearing, the DRB must find that new evidence can be presented that could not have previously been presented which indicates a substantial change of conditions or circumstances, or that the prior decision was induced by fraud, surprise, error or oversight, or that an unintended negative consequence will result.
 2. The reopened hearing will be warned in accordance with [Section 8.4\(A\)](#).
 3. The submission of a request for reconsideration will terminate the running of the 30-day appeal period. A new 30-day appeal period will start after the DRB either 1) decides to not reopen the hearing, or 2) votes to reopen and issues a reconsidered decision on the application.

9.7 Appeals

- A. **Interested Person Status Required.** Only interested persons, as defined in Article 10 of these Regulations, may appeal decisions of the ZA or DRB. Failure to have and secure interested person status shall void the ability to appeal municipal land use decisions.

9.7.1 Appeals of ZA

- A. Interested persons may appeal any decision or act taken by the ZA by filing a notice of appeal with the Secretary of the DRB, or Town Clerk if no Secretary has been elected, pursuant to 24 V.S.A. Section 4465. Such appeals shall include information required by

Section 4465 and shall be made within 15 days of the ZA decision or act. A copy of the appeal shall also be filed with the ZA.

- 1. Notice of Appeal – Contents.** Pursuant to 24 V.S.A. Section 4466, a notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to the appeal, the relief requested by the appellant, the alleged grounds why the requested relief is believed proper under the circumstances and payment of appeal fees as applicable.
- 2. Appeal Hearings.** Appeal hearings to the DRB shall be conducted pursuant to 24 V.S.A. Section 4468.
- 3. Rejection of Appeals.** The DRB may reject appeals and requests for reconsideration without hearing if the conditions of 24 V.S.A. Section 4470(a) are met. Rejected appeals or rejected requests for reconsideration may be appealed to the Environmental Division of Vermont Superior Court pursuant to 24 V.S.A. Section 4471.

9.7.2 Appeals – DRB Decisions

- A.** Interested ~~parties~~ ~~persons~~ who have participated in the application process may appeal written decisions of the DRB to the Environmental Division of Vermont Superior Court. Such appeals shall be filed pursuant to 24 V.S.A. Section 4471 and shall be made within 30 days of the DRB's written decision. A copy of the appeal shall also be filed with the municipal clerk or the ZA who shall supply the list of interested persons to the appellant within five (5) working days.

9.8 Violations and Enforcement

- A.** Pursuant to 24 V.S.A. Section 4470(b), the Town shall enforce all provisions of the Regulations, decisions of the ZA, and decisions of its appropriate municipal panels.

- B.** Violations of these Regulations will be prosecuted in accordance with 24 V.S.A. Section 4451. Any person who violates these Regulations will be fined not more than \$200 per day for each offense unless a higher fine is permitted under 24 V.S.A. in which case the highest possible fine may be imposed. Each day that a violation is continued will constitute a separate offense. No action may be brought under this section unless the alleged offender has had at least seven days' notice by certified mail that a violation exists and has failed to satisfactorily respond to or correct the alleged violation.
- C.** If any structure or land is or is proposed to be subdivided, constructed, reconstructed, altered, converted, maintained, or used in violation of these Regulations, the ZA will institute in the name of the Town any appropriate action, injunction or other proceeding to prevent, restrain, correct, or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation in accordance with 24 V.S.A. Section 4452.
- D.** The commencement or continuation of land development to which these Regulations are applicable, as set forth in [Section 1.4 \(Applicability\)](#), [Section 1.5 \(Interpretation\)](#) and [Section 1.6 \(Severability\)](#), which is not in conformance with these Regulations, will constitute a violation of these Regulations.

9.9 Technical Review and Financial Surety

- A. Technical Review.** The DRB may require the applicant to pay for reasonable costs of an independent technical and/or legal review of any application as provided for in 24 V.S.A. Section 4461(c).
- B. Financial Surety.** Pursuant to 24 V.S.A. Section 4464, the DRB may condition the approval of an application requiring development review upon the submission of a bond, escrow account, or other surety in a form

acceptable to the legislative body of the municipality to assure one or more of the following: the completion of the project, adequate stabilization, or protection of existing or future public facilities that may be affected by a project.