

ARTICLE VIII - ADMINISTRATION

A. **Appointments.** The following appointments shall be made by the Winooski City Council in association with the administration and enforcement of these regulations:

1. **Zoning Administrator (Administrative Officer).** The City Manager shall appoint a ZA. An acting ZA, who shall have the same duties and responsibilities of the ZA, may be appointed in the ZA's absence. The ZA shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.
2. **Development Review Board.** DRB members and alternates shall be appointed by the City Council for specified terms. The DRB shall adopt rules of procedure and rules of ethics with regard to conflicts of interest to guide its official conduct. The DRB shall have all powers and duties as set forth in the law and these regulations.
3. **Planning Commission.** Planning Commission members shall be appointed by the City Council. The Commission shall adopt rules of procedure and rules of ethics with regard to conflicts of interest to guide its official conduct. The Commission shall have the following duties in association with these regulations:
 - a. Prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, include amendments submitted by petition.
 - b. Prepare and approve written reports on any proposed amendment to these regulations as required.
 - c. Hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the City Council.

B. **Fee Schedule.** The City Council shall establish a schedule of fees to be charged in administering these regulations, with the intent of covering the city's administrative costs. Such fee schedule may be reviewed and revised periodically.

C. **Technical Review.** Should the DRB or the ZA require the assistance of an independent technical review when reviewing applications:

1. The ZA or DRB shall prepare a scope for the technical review. The scope shall be strictly limited and relevant to specific review criteria upon which findings and a decision must be made under the regulations.
2. The review shall be conducted in a timely manner.
3. The review shall be conducted by an independent consultant who is clearly qualified and demonstrates necessary expertise in the pertinent field(s), and, where applicable, is licensed by the state.
4. The cost of the review shall be paid for by the applicant.

D. **Public Notice.** In accordance with the Act [§ 4464(a)], warned public hearings shall be required for site plan and conditional use review, appeals, variances, and preliminary and final subdivision review. Notice shall be the responsibility of the ZA and shall be given not less than 15 days prior to the date of the public hearing by all of the following:

1. Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the City of Winooski.

2. Posting of the same information in three public places: the Winooski City Hall, and two other locations.
3. Posting of a notice of hearing within view from the public right-of-way nearest to the property for which the application is being made.
4. Written notification, sent by certified mail return receipt requested, to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes:
 - a. a description of the proposed project;
 - b. information that clearly informs the recipient where additional information may be obtained; and
 - c. notice that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
5. For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
6. For applications in which a waiver or variance is sought regarding setbacks from a state highway, written notification to the Secretary of the Agency of Transportation.
7. Cost of all required notice shall be borne by the applicant.

E. Meetings and Hearings.

1. **Development Review Board.** All meetings and hearings of the DRB, except for deliberative and executive sessions, shall be open to the public. The DRB shall adopt rules of procedure and rules of ethics that at minimum address the following, in accordance with the Act [§ 4461] and Vermont Open Meeting Law:
 - a. The conduct of any meeting and the taking of any action.
 - b. Quorums which shall be not less than a majority of the members of the DRB.
 - c. The DRB shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions which shall be filed immediately in the City Office as public zoning records.
 - d. Public hearings shall be noticed and warned in accordance with **Subsection D**. In any regulatory hearing of the DRB there shall be an opportunity for each person wishing to achieve status as an interested person, for purposes of participation or appeal under **Section 6.9** to demonstrate that the criteria for achieving such status are met. The Board shall keep a written record of the name, address, and participation of each of these persons.
 - e. The DRB may recess the proceedings on any application pending submission of additional information, and should close evidence promptly after all parties have submitted requested information.

- f. No member of the DRB shall communicate on any issue in an application proceeding, directly or indirectly, with any party, party's representative, party's counsel, or any interested person in the outcome of the proceeding while the proceeding is pending without additional notice and opportunity for all parties to participate. All ex parte communications received by DRB members, all written responses to such communications, and the identity of the person making the communication shall be entered into the record.
- g. Members of the DRB shall not participate in the decision on an application unless they have heard all the testimony and reviewed all the evidence submitted in the hearing. This may include listening to a recording, or reading the minutes or transcripts of testimony they have missed, and reviewing all exhibits and other evidence prior to deliberation.

F. **Decisions.** The DRB may recess proceedings on any application pending the submission of additional information. The DRB will close evidence promptly after all parties have submitted requested information, and shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period, on appeal, shall be deemed approval and shall be effective the 46th day.

1. All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken under **Section 6.9**.
2. DRB decisions shall also include a statement, in content and form approved by the Secretary of the Agency of Natural Resources, that state permits may be required and that the applicant or permittee should contact the state's regional permit specialist or individual state agencies to determine which state permits must be obtained before certificates of occupancy or compliance are issued, or any construction may commence.
3. In rendering a decision in favor of the applicant, the DRB may attach reasonable conditions and safeguards as it deems necessary to implement the purposes of the law, these regulations, and the municipal plan currently in effect.
4. All decisions shall be sent by certified mail, within the required 45-day period, to the applicant or to the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the ZA and City Clerk as part of the public record of the municipality, in accordance with **Subsection G**.
5. **Administrative Amendments.** Any decision issued by the DRB may authorize subsequent changes or amendments to an approved project subject to administrative review by the ZA, rather than DRB review, in accordance with the following, which shall be specified in the DRB's decision:
 - a. The decision shall clearly specify the thresholds and conditions under which administrative review and approval shall be allowed.
 - b. The thresholds and conditions shall be structured such that no new development shall be approved that results in substantial impact under the requirements of these regulations, or any of the thresholds or conditions set forth in the decision.

- c. No amendment issued as an administrative review shall have the effect of substantially altering the findings or fact of any DRB approval in effect.

Any decision of the ZA authorized in this manner may be appealed to the DRB in accordance with **Section 6.9**.

G. Recording Requirements.

1. Within 30 days of the issuance of a municipal land use permit or notice of violation, the ZA shall deliver either the original, a legible copy, or a notice of the municipal land use permit or notice of violation to the City Clerk for recording in the land records of the city generally as provided in 24 V.S.A. § 1154(c), and file a copy in City Hall in the zoning files. The applicant shall be charged for the cost of the recording fees.
2. For development within the Flood Hazard Area District, the ZA shall also maintain a record of all permits, elevation certificates, elevations, floodproofing certifications and variance actions issued for development within the district as required under **Appendix A**.
3. Approved subdivision plats and plans shall be recorded by the applicant in the city land records in accordance with the requirements of **Section 6.2**.

H. Availability & Distribution of Documents. Copies of these regulations, other related municipal regulations and ordinances, and the City plan shall be made available to the public during normal business hours in the Winooski City Hall.