

1 ADMINISTRATION

Roles and Responsibilities

§ 1001 ZONING ADMINISTRATOR

1001.A The Selectboard will appoint a Zoning Administrator in accordance with statute. The Selectboard may appoint an Acting or Assistant Zoning Administrator to act under the supervision of the Zoning Administrator, in the Zoning Administrator's absence, and/or if the Zoning Administrator has a conflict of interest.

1001.B The Zoning Administrator ~~will~~ must ~~shall~~:

- (1) ~~Assist applicants in determining~~ Determine whether and which town permits and/or approvals will be needed for the proposed land development;
- (2) Prepare and provide applicants with application forms and checklists;
- (3) Review applications for zoning permits and development approvals as specified in these regulations;
- (4) Inspect projects during construction when required as a condition of approval or to ensure compliance with these regulations;
- (5) Maintain public records;
- (6) Respond to complaints and violations; and
- (7) Perform all other tasks necessary to administer these regulations.

1001.C The Zoning Administrator must enforce the provisions of these regulations strictly and may only issue a zoning permit or other approval for development that conforms to these regulations.

1001.D The Zoning Administrator will refer applications to the Development Review Board as required under these regulations.

§ 1002 DEVELOPMENT REVIEW BOARD

1002.A The Selectboard will appoint members to the Development Review Board in accordance with statute. The Selectboard may appoint alternate members to serve when one or more regular members have a conflict of interest or are otherwise unable to serve.

1002.B The Development Review Board reviews applications for subdivisions, planned unit developments, site plan, conditional use and appeals, including dimensional waivers and variances, as specified in these regulations, state statute and its adopted rules of procedure.

§ 1003 PLANNING COMMISSION

1003.A The Selectboard will appoint members to the Planning Commission in accordance with statute.

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1003.B The Planning Commission drafts and considers amendments to these regulations and the zoning map, in addition to other powers and duties as specified in the *Vermont Planning and Development Act*, 24 VSA Chapter 117, §§ 4301 - 4498.

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Fees and Filing Requirements

§ 1004 PERMIT FEES

1004.A The Selectboard will establish reasonable fees for the Zoning Administrator or other town officials or employees to charge for administering these regulations. These fees may include, but are not limited to, the cost of posting and publishing notices, holding public hearings, recording documents, and conducting inspections.

1004.B The Zoning Administrator will supply a copy of the current fee schedule upon request.

1004.C An applicant must pay the applicable permit fees when submitting an application. The Zoning Administrator will not deem an application complete until all applicable permit fees are paid in full.

§ 1005 TECHNICAL OR LEGAL REVIEW COSTS

1005.A The Zoning Administrator or Development Review Board may hire qualified professionals to provide an independent technical and/or legal review of an application, ~~when deemed necessary~~ in order to ensure compliance with these regulations.

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1005.B The Zoning Administrator and Development Review Board must ~~shall~~ provide the applicant with a written scope for the technical or legal review prior to retaining a qualified professional to conduct the review.

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1005.C The applicant must pay the reasonable cost of any required technical or legal review prior to obtaining a zoning permit or filing a subdivision plat in accordance with procedures established by the Selectboard.

§ 1006 PERFORMANCE BONDS OR SURETIES

1006.A The Selectboard ~~may shall~~ must establish procedures and standards authorizing the Zoning Administrator or Development Review Board to require an applicant to provide a performance bond or surety as a condition of approval to insure the:

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- (1) Completion of proposed development in accordance with approved plans and applicable town specifications; and/or
- (2) Protection of any public facilities that may be affected by proposed development.

1006.B The Zoning Administrator or Development Review Board ~~may shall~~ must require an applicant to provide a quote prepared by a qualified professional for the full project cost and then may base the amount of any bond or surety on that quote.

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1006.C The Town of Norwich ~~will shall~~ must only release a required bond or surety after certification by the applicant and determination by the Zoning Administrator that the proposed development has been satisfactorily completed.

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§ 1007 AS-BUILT DRAWINGS

- 1007.A The Zoning Administrator or Development Review Board ~~may~~ shall ~~must~~ require an applicant to file as-built drawings as a condition of approval.
- 1007.B The Town of Norwich ~~will~~ shall ~~must~~ require as-built drawings for any infrastructure to be built within town rights-of-way or to be turned over to the town.
- 1007.C The Zoning Administrator ~~will~~ shall ~~must~~ require an applicant to file revised plans or as-built drawings when approved site or subdivision plans are amended or when minor adjustments to approved plans are necessary to respond to unforeseen conditions that arise during construction.

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§ 1008 OTHER PERMITS, APPROVALS AND CERTIFICATIONS

- 1008.A The Zoning Administrator or Development Review Board ~~may~~ must ~~shall~~ condition approval upon the applicant filing other permits, approvals or certifications required by the Town of Norwich, the State of Vermont or other regulatory entities prior to the issuance of a zoning permit, the start of construction, and/or the issuance of a certificate of compliance.

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Zoning Permits

§ 1009 SUBMITTING A ZONING PERMIT APPLICATION

- 1009.A **Zoning Administrator.** The Zoning Administrator ~~will assist prospective applicants by~~ must ~~shall~~:
 - (1) ~~Determining~~ Determine whether a project will require a zoning permit, and any associated development approvals, under these regulations and ~~keeping~~ written documentation of any such determinations as part of their office records;
 - (2) ~~Providing~~ Provide applicants with the necessary form(s) to apply for the applicable permit(s) and approval(s);
 - (3) ~~Notifying~~ Notify applicants of the fees or other charges that the town may charge in relation to the application or proposed development;
 - (4) ~~Informing~~ Inform applicants that state permits may be required for the proposed development and recommending that applicants contact the State Permit Specialist at the Regional Office of the Vermont Department of Environmental Conservation; and
 - (5) ~~Providing~~ Provide applicants with copies of the state energy standards for residential or commercial buildings as applicable and informing them of the need to file energy certificates.
- 1009.B **Applicant.** The applicant ~~must~~ shall:
 - (1) Submit all required forms, supporting materials and fees to the Zoning Administrator to apply for a zoning permit, and any associated development approval, under these regulations;
 - (2) Provide all the information necessary to demonstrate compliance with these regulations; and

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(3) Certify, by signing the application form, that all the information provided is complete and accurate to the best of their knowledge. The Zoning Administrator or Development Review Board ~~may must shall:~~

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- (a) Reject an application that misrepresents any material fact; and
- (b) Award reasonable attorney’s fees and costs to anyone who as incurred attorney’s fees and costs in connection with an application that misrepresents any material fact in accordance with the procedures established in state statute.

1009.C **Application Requirements.** The Zoning Administrator:

- (1) May waive an application requirement upon finding the information is not necessary to determine compliance with these regulations; ~~[Comment: This provision must set forth any and all circumstances permitting the ZA to determine that the information is not necessary to determine compliance with these regulations. Without such a list, this provision is open to subjective judgments and gaming the process, and therefore must be deleted.]~~
- (2) May require an applicant to provide additional information as necessary to demonstrate compliance with these regulations; and
- (3) Must shall keep written documentation of any application requirement waived or additional information requested as part of their office records.

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1009.D **Determination of Completeness.** The Zoning Administrator must ~~shall:~~

- (1) ~~Promptly~~ D determine whether an application is complete ~~promptly~~ and in no case more than 15 days after the applicant submits it unless the applicant agrees to a longer period; and
- (2) Inform the applicant of the determination. If the application is incomplete, the Zoning Administrator must inform the applicant in writing of what additional information is required.

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§ 1010 ACTING ON A COMPLETE ZONING PERMIT APPLICATION

1010.A **Time to Act.** Once the Zoning Administrator determines that an application for a zoning permit is complete, the Zoning Administrator must act within ~~30~~ 90 days to approve, deny or refer it to the Development Review Board except that the period within which the Zoning Administrator must act will not commence for a zoning permit application that requires:

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- (1) One or more development approvals under these regulations until the applicant has obtained all those necessary approvals for the proposed development; or
- (2) Notification of a state agency until the agency comments or the comment period elapses, whichever occurs first.

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1010.B **Deemed Approval.** If the Zoning Administrator does not act on a complete application within ~~30~~ 90 days, ~~except in the event of significant unanticipated circumstances that prevent the Zoning Administrator from so acting,~~ the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator’s failure to act within the ~~30-day~~ 90-day period resulted in a “deemed approval” of the application.

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1010.C **Review Criteria.** The Zoning Administrator must shall administer these regulations strictly and must shall not approve an application for a zoning permit unless it conforms to all applicable provisions of these regulations.

1010.D **Amended Regulations under Consideration.** The Zoning Administrator must shall act on any application submitted while the Selectboard is considering amendments to these regulations in accordance with state statute, which requires that applications be reviewed under both the adopted and proposed regulations for a specified period. A decision made regarding such an application shall be decided pursuant to the more restrictive regulation.

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1010.E **Decisions.** The Zoning Administrator must shall approve or deny applications in writing and specifically provide the following information:

- (1) **Approval.** When approving an application, the Zoning Administrator must shall inform the applicant that the applicant must:
 - (a) Post a notice of the zoning permit (to be provided by the Zoning Administrator) within view from the public right-of-way on the subject property or if no visible location is available within the public right-of-way most nearly adjacent to the subject property throughout the 15-day appeal period as set forth in §1033; and
 - (b) Not commence the development authorized by the permit until the 15-day appeal period has ended and the applicant provides the Zoning Administrator with copies of any state permits or approvals as per § 1013. [Comment: is this the proper section being cited?]
- (2) **Denial.** When denying an application, the Zoning Administrator must shall:
 - (a) Inform the applicant that the denial may be appealed to the Development Review Board within 15 days of the date of the decision; and
 - (b) Include a copy of § 1033 explaining the appeal process.

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1010.F **Permit Issuance.** The Zoning Administrator:

- (1) **Conditions of Approval.** ~~May~~ Shall issue a zoning permit with conditions as necessary to ensure compliance with these regulations.
- (2) **Temporary Permits.** May issue a zoning permit to allow a temporary use or structure for a specified period not to exceed 2 years with conditions requiring the use to terminate or the structure to be removed, or that applicant obtain a zoning permit for a permanent use or structure, prior to the expiration of the permit.
- (3) **Notification Prior to Use or Occupancy.** Must Shall condition any zoning permit on the applicant notifying the Zoning Administrator when construction is completed and/or the use will be commencing (some proposed development will require a certificate of compliance in accordance with § 1014).
- (4) **Energy Certificates.** Must Shall condition any zoning permit for proposed development that is subject to the state's residential or commercial building energy standards on the applicant providing the Zoning Administrator with a copy of an energy certificate for the building when construction is completed.

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- (5) **Water and Wastewater Permits.** Must Shall condition any zoning permit for proposed development that requires the construction, modification or replacement of a potable water supply or wastewater system, or that increases the design flow or modifies the operational requirements of a potable water supply or wastewater system on the applicant obtaining and providing the Zoning Administrator with a copy of a wastewater system and potable water supply permit from the town or state, as applicable, prior to the start of construction.
- (6) **Stormwater Permits.** Must Shall condition any zoning permit for proposed development that requires a state stormwater permit on the applicant obtaining and providing the Zoning Administrator with a copy of that permit prior to the start of construction.
- (7) **Access Permits.** Must Shall condition any zoning permit for proposed development that requires a new or modified access on the applicant obtaining and providing the Zoning Administrator with a copy of the access permit prior to the start of construction.
- (8) **Manufactured Home Installation.** Must Shall condition any zoning permit for installation of a manufactured home on the applicant obtaining and providing the Zoning Administrator with a copy of the HUD Manufactured Home Installation Certification and Verification Report prior to occupying the structure.
- (9) **Development Near Property Lines.** May condition any zoning permit for construction or installation of a structure within 10 feet of a property line on the applicant obtaining a certificate of compliance in accordance with § 1014. [Comment: this provision requires clarification setting forth the circumstances under which the ZA may condition a permit.]

1010.G **Posting Requirements.** The Zoning Administrator must shall post a copy of the zoning permit in at least one public place within 3 days after issuing it. The copy must remain posted throughout the 15-day appeal period.

1010.H **Filing Requirements.** The Zoning Administrator must shall:

- (1) Provide a copy of the permit to the Town Assessor within 3 days after issuing it;
- (2) Deliver an original, signed copy of the zoning permit or the notice of zoning permit to the Town Clerk for recording within 30 days after issuing it, except that a temporary permit does not have to be recorded; and
- (3) File a copy of the permit as part of ~~their~~ the Town Clerk's office records within 30 days after issuing it.

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§ 1011 OBTAINING A ZONING PERMIT

1011.A **Permit Takes Effect.** A zoning permit takes effect on the 16th day after the Zoning Administrator issues it provided that no appeal is filed during the previous 15 days (see § 1033) or that the applicant has not requested a delay. If an interested person files an appeal, the zoning permit will not take effect until the appeal is decided.

1011.B **Delay in Effect.** The applicant may request that a zoning permit and any associated development approvals not take effect until all permits and approvals necessary to commence the development are obtained in accordance with the following:

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- (1) The Zoning Administrator may delay the effective date of a permit and any associated development approvals for no more than 12 months unless the Development Review Board approves a longer delay due to factors beyond the applicant's control (e.g., extended or contested Act 250 proceedings or litigation).
- (2) ~~It will be~~ shall be ~~the applicant's responsibility to~~ must request that the zoning permit and any associated development approvals take effect.

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1011.C **Permit Timeframe and Extension.** Zoning permits and any associated development approvals expire 2 years from the date the permit takes effect unless:

- (1) The Development Review Board specifies otherwise as a condition of approval; [comment: such conditions must be set forth somewhere in these regulations, and referred to in this provision.]
- (2) The applicant commences any use and/or substantially completes any construction authorized by the permit prior to its expiration; or
- (3) Prior to the zoning permit's expiration, the applicant requests and receives from the Zoning Administrator an extension of not more than 12 months. The Zoning Administrator may only grant one such extension upon the applicant demonstrating that any improvements completed to date conform to the conditions of the permit and any associated development approvals.

1011.D **Phased Projects.** If the Development Review Board approves a project to be developed in phases, the Zoning Administrator ~~will~~ shall~~must~~ issue zoning permits for that project in accordance with the approved phasing plan and schedule. Each zoning permit ~~will~~ shall~~must~~ be separately issued and administered in accordance with the provisions of these regulations.

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1011.E **Projects with Multiple Units or Structures.** The Zoning Administrator may issue a zoning permit for each unit or structure within a project with multiple units or structures. If so, each zoning permit ~~will~~ shall~~must~~ be separately administered in accordance with the provisions of these regulations.

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1011.F **Transfer of Permit.** Zoning permits and any associated development approval remain in effect as specified in these regulations irrespective of any change in ownership or tenancy of the subject property. All subsequent landowners or tenants are subject to the requirements and conditions of any zoning permit and associated development approvals.

1011.G **Expired Permits.** If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant ~~must~~ shall apply for a new zoning permit and any other associated development approvals under these regulations. ~~in order in order to continue or complete the construction or use.~~

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1011.H **Posting of Permit.** A copy of the permit or permit notice provided by the Zoning Administrator must be visible from a public portion of the subject property (i.e., along the street or driveway, at the front door or in a front window) during construction.

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§ 1012 AMENDING PERMITS OR APPROVALS PRIOR TO PROJECT COMPLETION

1012.A An applicant ~~may~~ **must** submit a written request for the ~~Zoning Administrator~~ **Development Review Board** to amend a zoning permit, and any associated development approval, prior to project completion. The applicant must demonstrate that the proposed changes to the development:

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- (1) Are in conformance with the dimensional standards for the zoning district, the approved building envelope on the lot (if required under these regulations), and all other applicable provisions of these regulations;
- (2) Do not have the effect of materially or substantively altering any of the findings of fact of the permit and any associated development approvals; and
- (3) Do not change the scale, location, type, character, density, or intensity of the approved development or use to a greater extent than specified below:
 - (a) Any proposed increase in structure height must not exceed 10 feet;
 - (b) Any proposed decrease in setback resulting from a change in the structure's footprint or location must not exceed 10 feet;
 - (c) Any proposed increase in building footprint must not exceed 500 square feet;
 - (d) Any proposed increase in the total amount of impervious surface on the lot must not exceed 2,500 square feet;
 - (e) Any proposed modification must not result in a change in the location or dimensions of the approved access to the lot from the street.
 - (f) Any proposed modification must not result in an increased requirement for parking or loading spaces;
 - (g) Any proposed substitution of exterior materials or fixtures must be in-kind with what was originally approved (if exterior materials or fixtures were specified in the original application or approval); and
 - (h) Any proposed substitution of required plant materials must not change the overall landscape design concept and function (if plant materials were specified in the original application or approval).

1012.B The scope of the review will be limited to those aspects of the development affected by the proposed changes.

1012.C The Zoning Administrator ~~may~~ **must**:

- (1) ~~Refer the request to amend a permit and any associated development approval to the Development Review Board for review under § 1031. Approve a request to amend a permit, and any associated development approval, in writing, and which~~ may condition any approval on the applicant submitting as-built plans when construction is complete;
- (2) ~~Refer the request to the Development Review Board for review under § 1031S 1031S~~ or
- (3) Deny the request and require the applicant to submit a new application for the proposed development.

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~~1012.D No notice or posting is required for an administratively approved amendment.~~

1012.E The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

§ 1013 INSPECTING DEVELOPMENT DURING CONSTRUCTION

1013.A The Zoning Administrator ~~may~~ **must** inspect any development during construction as necessary to ensure compliance with these regulations and any permit or approval conditions.

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§ 1014 OBTAINING A CERTIFICATE OF COMPLIANCE

1014.A **When Required.** An applicant must request a certificate of compliance from the Zoning Administrator before:

- (1) Occupying or commencing the use of any development subject to approval from the Development Review Board;
- (2) Commencing land development within a subdivision approved on condition that the applicant construct public or private improvements; or
- (3) Occupying or commencing the use of any development approved on condition that the applicant obtain a certificate of compliance.

1014.B **Application.** The Zoning Administrator ~~will~~ **must** provide applicants with the necessary form to apply for a certificate of compliance. The applicant ~~must~~ submit the completed form prior to the expiration of the associated zoning permit or prior to submitting an application for land development on lots within a subdivision, as applicable.

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1014.C **Time to Act.** The Zoning Administrator must act on a complete application for a certificate of compliance promptly and in all cases within 30 days. The Zoning Administrator may:

- (1) Require the applicant to submit as-built plans or other documentation from a qualified professional certifying that the development as constructed conforms to the approved plans; and/or
- (2) Inspect the subject property and consult with other town or state personnel as necessary to determine compliance.

1014.D **Deemed Approval.** If the Zoning Administrator does not act on a complete application for a certificate of compliance within 30 days, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.

1014.E **Criteria.** Before receiving a final certificate of compliance, the applicant must certify and demonstrate to the Zoning Administrator that:

- (1) The development is substantially complete and conforms to the requirements of the zoning permit and/or development approvals, the filed plans, and the applicable provisions of these regulations;
- (2) All commonly-owned or shared improvements and infrastructure connections are complete and conform to any applicable town or state specifications, the requirements of the zoning permit and/or development approvals, the filed plans, and the applicable provisions of these regulations;

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- (3) The applicant has recorded all required documents with the town including, but not limited to, as-built drawings, energy certificate, wastewater and potable water supply permit, access permit, and stormwater permit as applicable; and
- (4) The applicant has paid all required fees.

1014.F **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance that conditions use or occupancy on full completion of all required improvements within not more than 180 days as follows:

- (1) The Zoning Administrator ~~may~~ **must** require the applicant to submit a performance bond in accordance with ~~§ 1006~~ to insure full completion of the outstanding work;
- (2) The Zoning Administrator ~~will~~ **must** require the applicant to submit a performance bond in accordance with ~~§ 1006~~ if any commonly-owned or shared improvements or infrastructure connections remain incomplete; and
- (3) The applicant must apply for a final certificate of compliance prior to the expiration of the temporary certificate.

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1014.G **Phased Development.** If the development will be phased, Zoning Administrator may issue certificates of compliance for individual phases as they are completed in accordance with the permit and associated conditions of approval.

1014.H **Decisions.** The Zoning Administrator must approve or deny applications for a certificate of compliance in writing as follows:

- (1) **Approval.** When approving an application, the Zoning Administrator must inform the applicant that the issuance of a certificate of compliance will not preclude the Town of Norwich taking enforcement action for any violation of the zoning permit or associated development approvals.
- (2) **Denial.** When denying an application, the Zoning Administrator must:
 - (a) State the reasons for the denial;
 - (b) Inform the applicant that the denial may be appealed to the Development Review Board within 15 days of the date of the decision;
 - (c) Include a copy of § 1033, which explains the appeal process; and
 - (d) Commence appropriate enforcement action if a violation of these regulations is found.
- (3) **Reapplication.** The applicant may submit another application for a certificate of compliance, including all applicable fees, after remedying any conditions identified as the reason for the denial.

1014.I **Posting Requirements.** The Zoning Administrator must post a copy of the certificate of compliance in at least one public place within 3 days after issuing it. The copy must remain posted throughout the 15-day appeal period.

1014.J **Filing Requirements.** The Zoning Administrator must:

- (1) Deliver an original, signed copy of the certificate of compliance to the Town Clerk for recording within 30 days after issuing it, except that a temporary certificate does not have to be recorded; and

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- (2) File a copy of the certificate of compliance as part of their office records within 30 days after issuing it.

§ 1015 REQUESTING A CONFORMANCE OR “BIANCHI” LETTER

1015.A Violations of these regulations create a cloud on the title of property. Before real estate can be sold, the parties involved in the transaction must determine whether the property is in conformance with these regulations. The Town of Norwich will not issue a letter certifying that there are no violations of these regulations on the subject property. It is the responsibility of the parties involved in the transaction to review the town land records and make their own determination of conformance.

§ 1016 REVOKING PERMITS OR APPROVALS

1016.A The Zoning Administrator may petition the Environmental Division of Superior Court to revoke a zoning permit and any associated development approvals if an applicant:

- (1) Omitted or misrepresented a material fact on an application or at a hearing; or
- (2) Violates the terms of the permit and any associated development approvals.

~~§ 1016 — 1016.B The Zoning Administrator must file a report setting forth the Zoning Administrator's findings, if any, and reasoning for filing or not filing a petition to revoke a zoning permit and any associated development approvals with the Environmental Division of Superior Court to the Town Clerk as part of their office records within 30 days of the decision to file or not file.~~

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§ 1017 APPEALING ADMINISTRATIVE ACTIONS OR DECISIONS

1017.A The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under these regulations to the Development Review Board as specified in § 1033.

Development Approvals

§ 1018 APPLICATION PROCESS

1018.A ~~Pre-Application Conference.~~ A prospective applicant may request a pre-application conference with the Zoning Administrator prior to submitting a complete application. A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to ~~consult with~~ obtain information from the Zoning Administrator about the process of obtaining a permit for project and receive ~~advice~~ information on preparing an application in conformance with these regulations. Any comments or recommendations made are intended to provide general direction to the prospective applicant and will not be deemed binding in the preparation or review of any subsequent application for development approval. The Zoning Administrator must not provide strategic or tactical advice that could be obtained from an attorney, engineer, or other person or entity knowledgeable about land use planning and development that an applicant could hire.

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1018.B **Zoning Administrator.** The Zoning Administrator ~~will assist prospective applicants by~~ **must**:

- (1) ~~Determining~~ **Determine** whether a project will require one or more development approvals under these regulations;
- (2) ~~Providing~~ **Provide** applicants with the necessary form(s) to apply for the required approval(s);
- (3) ~~Notifying~~ **Notify** applicants of the fees or other charges that the town may charge in relation to the application or proposed development; and
- (4) ~~Informing~~ **Inform** applicants that state permits may be required for the proposed development and recommending that applicants contact the state permit specialist at the Regional Office of the Vermont Department of Environmental Conservation.

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1018.C **Applicant.** The applicant must:

- (1) Submit all required forms, supporting materials and fees to the Zoning Administrator to apply for a development approval under these regulations;
- (2) Provide all the information necessary to demonstrate compliance with these regulations; and
- (3) Certify, by signing the application form, that all the information provided is complete and accurate to the best of their knowledge.

1018.D **Determination of Completeness.** The Zoning Administrator must:

- (1) Determine whether an application is complete promptly and in no case more than 15 days after the applicant submits it; and
- (2) Inform the applicant of their determination. If the application is incomplete, the Zoning Administrator must inform the applicant in writing of what additional information is required.

1018.E **Application Requirements.** The Zoning Administrator:

- (1) **General Waiver.** May waive an application requirement **only** upon written request by the applicant and **only** upon the applicant **clearly and unambiguously** demonstrating that the information is not necessary to determine compliance with these regulations.
- (2) **Site Plan Drawings.** ~~Will~~ **Must/May** waive requirements for site plan drawings for minor site plan applications that do not involve physical changes to the exterior of a structure or to the site. [Comment: It would be better if there is simply a regulation clearly eliminating the need for site plan drawings for a site plan that does not involve physical change as stated here, unless there are circumstances that are foreseeable where a site plan would be necessary for such a minor subdivision. If "Will" (which should be "Must") was mandatory in this reg., then there is no need for a waiver in the first place, simply a reg that eliminates the need altogether.]
- (3) **Boundary Survey.** ~~Will~~ **Must** waive the requirement for submitting a full boundary survey of a: [Comment: This reg has the same problem as (2).]
 - (a) Lot subject to a lot line adjustment or lot merger if the lot is more than 10 acres in size.
 - (b) Parent parcel provided that the retained portion is more than 10 acres in size and is not less than 70% of the total acreage before subdivision.

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- (4) **Additional Information.** May require an applicant to provide additional information as necessary to determine compliance with these regulations.
- (5) **Recordkeeping.** Must keep written documentation of any application requirement waived or additional material requested as part of their office records and submit that information to the Development Review Board with the application. The Development Review Board may require an applicant to provide additional information, including an application requirement waived by the Zoning Administrator, if necessary to determine compliance with these regulations (see § 1103).

1018.F **Referral to Development Review Board.** Once the Zoning Administrator determines that an application is complete and the applicable fees have been paid, the Zoning Administrator must warn a public hearing on the application by the Development Review Board at their next available regularly scheduled meeting following the warning period required under § 1101.

1018.G **Appeal of Administrative Actions.** The applicant or other interested person may appeal any of the Zoning Administrator’s actions or decisions under this section to the Development Review Board as specified in § 1033.

§ 1019 APPLICATION REQUIREMENTS

1019.A **Site or Subdivision Plan.** Applicants must submit a site or subdivision plan with any application for a development approval that at a minimum conforms to the specifications below and any application forms or checklists provided by the Zoning Administrator unless a specific requirement is waived in accordance with § 1018. ~~It is the applicant’s responsibility to~~ **The applicant must** provide the information necessary to demonstrate compliance with these regulations. As per § 1018 and § 1103, the Zoning Administrator or Development Review Board may require an applicant to provide additional materials. [Comment: The language was changed here because stating “it is the applicant’s responsibility to...” is policy, not regulation, and should be set forth at the head of this section, separately, as all policy statements should be.]

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- (1) **Scale and Sheet Size.** All plan drawings must be to scale. Site plan drawings should be at a scale of 1 inch = 30 feet or less whenever possible. Full-size plan drawings must not exceed a sheet size of 24” x 36”. If the full-size drawings are larger than 11” x 17”, the applicant must provide reduced sized drawings that are legible and to scale at a sheet size not to exceed 11” x 17”. The applicant must also provide electronic files for all plan drawings at full and reduced scale (Adobe PDF or other format as agreed to by the Zoning Administrator).
- (2) **Project Narrative.** The applicant must submit a written statement demonstrating that the proposed development conforms to the applicable standards of these regulations by listing the facts and reasons why the application meets each of the applicable criteria of ~~Figure 1-01~~ **Figure 1-01**. [Comment: It would be clearer if the conditions listed in Figure 1-01 were set apart in their own section, and referred to as something other than a “figure”. A “figure” is usually an exemplar of a condition or circumstance. The information set forth in Figure 1-01 is regulatory and will be clear and unambiguous when the “[cross reference]” clauses are completed.]
- (3) **Deed of Record.** The applicant must provide a copy of the current deed of record filed in the town land records for the subject parcel.
- (4) **Site or Subdivision Plan Drawing(s).** The applicant must submit a site or subdivision plan drawing(s) that includes the following information:
 - (a) **Boundaries and Setbacks.** The location of all existing and proposed lot lines,

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setbacks, easements or rights-of-way, and survey monuments;

- (b) **Resources and Hazards.** The location of natural, historic or archeological resources including but not limited to: watercourses, wetlands, flood hazard areas and steep slopes (applicants may rely on the information available from the Vermont Natural Resource Atlas or may provide field assessments and delineations prepared by a qualified professional);
 - (c) **Landform and Grading.** Existing and proposed contours (applicants may rely on lidar generated contours available from the Vermont Center for Geographic Information or may provide a topographic survey prepared by a qualified professional);
 - (d) **Structures and Impervious Surfaces.** The use, location, distance from setbacks, height and footprint of all existing and proposed buildings, structures and impervious surfaces;
 - (e) **Greenspace.** The location and use of all existing and proposed greenspace, open space and green stormwater management practices;
 - (f) **Access and Infrastructure.** The location and dimensions of all existing and proposed streets, sidewalks, walkways, bikeways, paths, trails, driveways, parking facilities, loading spaces, mechanicals and utilities (on-site generators, substations, utility cabinets, utility poles, etc.), dumpster or waste storage locations, snow storage locations, points of access to surrounding streets, points of access to surrounding bike, sidewalk and trail networks, and associated easements.
- (5) **Lighting Plan Drawing(s).** When outdoor lighting will be installed or modified, applicants must submit a lighting plan drawing(s) that includes the following information:
- (a) Location, height and initial output (measured in lumens) of all proposed outdoor light fixtures to be installed and existing outdoor light fixtures to be retained; and
 - (b) Specifications of all proposed light fixtures including any shields, mounting hardware, pole types and heights, and bases demonstrating compliance with the requirements of these regulations.
- (6) **Landscape Plan Drawing(s).** When landscaping will be installed or modified, applicants must submit a landscape drawing(s) that includes the following information:
- (a) Location and species of all plant materials that will be used to meet landscaping or screening requirements under these regulations;
 - (b) Existing and proposed amenities associated with the landscape plan (hardscapes, fencing, walls, recreation facilities, benches, trash receptacles, bike racks, other site furniture, public art, etc.).
- (7) **Architectural Drawing(s).** When the project involves construction of a new principal building or exterior modifications to an existing principal building, applicants must submit building elevations and other architectural drawings and specifications for exterior materials and colors as necessary to demonstrate compliance with the applicable standards of these regulations.

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- (8) **Erosion Control and Stormwater Management Plan Drawing(s).** When the application involves land clearing or soil disturbance, applicants must submit erosion control and/or stormwater management plan drawing(s) as necessary to demonstrate compliance with these regulations.

1019.B **Revised Application Materials.** Applicants may submit revised plans or other application materials to the Zoning Administrator prior to the hearing on the application being warned in accordance with § 1101.

§ 1020 TECHNICAL REVIEW

1020.A The Zoning Administrator or Development Review Board may refer applications for development approvals to the Public Works Director or other town or state staff for technical review as necessary to determine conformance with the standards of these regulations.

§ 1021 SITE PLAN REVIEW

1021.A **Applicability.** All proposed development other than a single-unit or two-unit dwelling, and any accessory uses or structures to such a dwelling, requires site plan approval before the Zoning Administrator may issue a zoning permit. [\[Comment: In light of 1021.B, why are single-unit and two-unit dwellings and any accessory uses or structures to such a dwelling excepted?\]](#)

1021.B **Purpose.** The purpose of site plan review is to ensure that: [\[Comment: Any section or statement that expresses a purpose or intent or reasoning is a policy not a regulation, and should be the first section/sub-section in any regulatory document. Here, this sub-section should be 1021.A, and what is shown above as 1021.A should be 1021.B. This type of expression is important to the DRB for interpreting the language of the regulations when there is an ambiguity or vagueness in the regulatory language.\]](#)

- (1) The physical aspects of proposed development comply to all applicable provisions of these regulations;
- (2) Proposed development is appropriately sited, and is complimentary to and functionally integrated with surrounding development to the greatest extent feasible;
- (3) Proposed development is of high quality and designed with site features such as landscaping, screening and outdoor lighting, that will be compatible with and enhance its setting; and
- (4) Access, driveways, parking facilities, emergency access, stormwater systems, utilities and other infrastructure are adequately provided and engineered to serve the proposed development.

1021.C **Classification.** The Zoning Administrator will classify a site plan application for proposed development as either minor or major.

1021.D **Minor Site Plan.** ~~The Zoning Administrator~~ **The Development Review Board:** [\[Comment: All site plan decisions should be made in public meetings, for the sake of transparency.\]](#)

- (1) Reviews minor site plans. Proposed development that does not meet the definition of a major site plan in Paragraph E(1) below will be considered a minor site plan.
- (2) Must act on a complete minor site plan application following the same process established for zoning permit applications in these regulations.
- (3) May approve, deny or refer minor site plan applications to the Development Review Board.

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- (4) Must find that the proposed development meets all the applicable criteria specified in [Figure 1-01](#) before approving a site plan application.
- (5) May approve a minor site plan application with conditions as necessary to ensure compliance with these regulations.
- (6) ~~Upon Development Review Board approval the Zoning Administrator M~~ must issue a zoning permit for the proposed development concurrently with a site plan approval.

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1021.E Major Site Plan. The Development Review Board:

- (1) Reviews major site plans. Proposed development that includes any of the following will be a major site plan:
 - (a) Commencement of a new conditional use (this will not be interpreted to include expansions of an existing conditional use or the commencement of a new accessory use to an existing conditional use);
 - (b) Construction of a structure with a footprint greater than 900 square feet;
 - (c) Major renovation of an existing structure with a footprint greater than 900 square feet; ~~["Major renovation" must be defined. How is it differentiated from repair or maintenance? What is the difference between "major" and "minor" renovation?]~~
 - (d) Any increase in the number of dwelling units within a building resulting in the total number of units in the building being 5 or more; ~~[Why 5? Why not 2 or more. since even an increase of only 1 is a significant change in the character of the development?]~~
 - (e) Construction of a new access to the lot (this will not be interpreted to include modification of existing access); or
 - (f) Any increase of 5,000 square feet or more in impervious surface on a lot (this will not be interpreted to include resurfacing of existing impervious surfaces).
- (2) Must hold a public hearing and issue a decision on a site plan application in accordance with [§ 1101 - § 1105](#).
- (3) Must find that the proposed development meets all the applicable criteria specified in ~~Figure 1-01~~~~Figure 1-01~~~~Figure 1-01~~ before approving a site plan application.
- (4) May approve a major site plan application with conditions as necessary to ensure compliance with these regulations.

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1021.F Appeal of Administrative Actions. The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in [§ 1033](#).

§ 1022 CONDITIONAL USE REVIEW

1022.A Applicability. A landowner must obtain a development approval from the Development Review Board and then a zoning permit from the Zoning Administrator prior to commencing a new conditional use or making a major change to an existing conditional use. Proposed development that includes any of the following will be considered a major change to a conditional use:

- (1) Modification of any limits on off-site impacts established as a condition of approval such as hours of operation, noise, lighting, traffic generation, etc.;

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- (2) Expansion of the floor area occupied by the conditional use by more than 500 square feet;
- (3) Increase in the number of dwelling units ~~(this will not include~~ including accessory dwellings; or
- (4) Construction of additional parking spaces or loading areas ~~(this will not include~~ including construction of previously approved reserve parking or loading spaces).

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1022.B Purpose. The purpose of conditional use review is to ensure that a proposed use will not have undue adverse effects beyond the property line on the character and quality of the neighborhood and the natural environment, or on public streets, infrastructure, facilities and services. *[Comment: Any section or statement that expresses a purpose or intent or reasoning is a policy not a regulation, and should be the first section/sub-section in any regulatory document. Here, this sub-section should be 1022.A, and what is shown above as 1022.A should be 1022.B. This type of expression is important to the DRB for interpreting the language of the regulations when there is an ambiguity or vagueness in the regulatory language.]*

~~1022.B~~1022.C

~~1022.C~~1022.D **Acting on a Conditional Use Application.** The Development Review Board must hold a public hearing and issue a decision on a conditional use application in accordance with § 1101 - § 1105.

~~1022.D~~1022.E **Review Criteria.** To approve a conditional use application, the Development Review Board must find that the applicant has demonstrated that the proposed development meets all the applicable standards specified in Figure 1-01.

~~1022.E~~1022.F **Conditions of Approval.** The Development Review Board may approve a conditional use application with conditions as necessary to ensure compliance with these regulations.

§ 1023 PLANNED UNIT DEVELOPMENT REVIEW

1023.A **Review Process.** A planned unit development (PUD) will require subdivision approval under these regulations in accordance with § 1028. If proposed development within a PUD also requires site plan approval under these regulations, the Development Review Board will conduct that review concurrently with subdivision review in accordance with § 1029. *[Comment: Where is a PUD defined? Should it be defined here, or will it be defined under a different title?]*

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§ 1024 REVIEW OF DRIVEWAYS

1024.A **Administrative Review.** The Zoning Administrator may approve a design for a new or modified driveway serving an existing lot following the same process established for zoning permit applications in these regulations and in accordance with the standards of [cross-reference]. To apply for a permit for a driveway, an applicant must have first obtained an access permit from the Vermont Agency of Transportation or the Town of Norwich Public Works Director, as applicable.

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§ 1025 REVIEW OF BUILDING ENVELOPES

1025.A **Administrative Review.** The Zoning Administrator may approve the designation or amendment of a building envelope on an existing lot following the same process established for zoning permit applications in these regulations and in accordance with the standards of ~~cross-reference~~.

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1025.B **Filing Requirements.** Within 180 days after the Zoning Administrator approves an application, the applicant must file a final plat for recording in the town's land records in accordance with § 1028.

§ 1026 REVIEW OF LOT LINE ADJUSTMENTS AND LOT MERGERS

1026.A **Purpose.** The provisions of this section are intended to allow landowners to modify or eliminate the lot lines between existing, lawful parcels. This process is the only means to modify or eliminate lot lines shown on an approved plat lawfully filed in the town land records (filing a revised deed alone will not modify or eliminate lot lines).

1026.B **Administrative Review.** The ~~Zoning Administrator~~ Development Review Board may approve the realignment, relocation or elimination of a boundary line between abutting lots following the same process established for zoning permit applications in these regulations provided that the proposed change:

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- (1) Will not result in an increase in the number of lots;
- (2) Will not create a new nonconforming lot or structure (it may involve a pre-existing nonconformity);
- (3) Will not increase the degree of nonconformity of a pre-existing nonconforming lot or structure by more than 25%; and
- (4) Will not violate any conditions of a prior permit or approval.

1026.C **Referral for Subdivision Review.** The Zoning Administrator may refer applications to the Development Review Board for review as a minor subdivision. The Development Review Board may approve lot line adjustments that will increase the degree of nonconformity of a pre-existing nonconforming lot or structure upon the applicant demonstrating that the proposed modification meets the criteria for a waiver in ~~Figure 1-02~~ Figure 1-02.

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1026.D **Filing Requirements.** Within 180 days after the ~~Zoning Administrator or~~ Development Review Board approves an application, the applicant must file a final plat for recording in the town's land records in accordance with § 1028.

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§ 1027 REVIEW OF FOOTPRINT LOTS [COMMENT: WHAT ARE FOOTPRINT LOTS? NEEDS DEFINITION.]

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1027.A **Purpose.** The provisions of this section are intended to allow landowners to create one or more footprint lots on a parcel if required for legal or financing reasons.

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1027.B **Interpretation.** A footprint lot will not be considered a separate parcel for the purpose of administering these regulations.

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1027.C **Footprint Lots on Existing Parcels.** The ~~Zoning Administrator~~ Development Review Board may approve the creation of footprint lots on existing parcels following the same process established for zoning permit applications in these regulations provided that the proposed change will:

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- (1) Conform to the requirements of 27 V.S.A. Chapter 15 for the formation and governance of condominiums; and
- (2) Not violate any conditions of a prior permit or approval.

1027.D **Footprint Lots on New Parcels.** The Development Review Board may approve footprint lots on new parcels being created through subdivision or within a planned unit development provided that the proposed plan conforms to the requirements of 27 V.S.A. Chapter 15 for the formation and governance of condominiums.

1027.E **Filing Requirements.** Within 180 days after the ~~Zoning Administrator~~ or Development Review Board approves an application, the applicant must file a final subdivision plat for recording in the town's land records in accordance with § 1028.

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§ 1028 SUBDIVISION REVIEW

1028.A Applicability

- (1) A lot must be lawfully established by recording an approved subdivision plat in the town's land records in full conformance with these regulations prior to being sold, transferred or leased except that a landowner may:
 - (a) Lease land for farming or forestry purposes; or
 - (b) Sell or grant rights-of-way or easements that do not result in the subdivision of land.
- (2) A landowner must not commence any site preparation, construction or land development on land to be subdivided prior to recording an approved subdivision plat in the town' land records in full conformance with these regulations.
- (3) The Zoning Administrator must not issue any permits for land development on a lot created by subdivision until the landowner has recorded a subdivision plat in the town's land records in conformance with these regulations.

1028.B Purpose. The purpose of subdivision review is to ensure that: *[Comment: Any section or statement that expresses a purpose or intent or reasoning is a policy not a regulation, and should be the first section/sub-section in any regulatory document. Here, this sub-section should be 1028.A, and what is shown above as 1028.A should be 1028.B. This type of expression is important to the DRB for interpreting the language of the regulations when there is an ambiguity or vagueness in the regulatory language.]*

~~1028.A~~

- ~~(5)~~(1) Subdivided lots are suitable for development without endangering public health, safety or welfare;
- ~~(6)~~(2) Appropriate provisions are made for necessary improvements including, but not limited to, water supply, sewage disposal, stormwater management, fire and emergency protection and access, and utilities;
- ~~(7)~~(3) Proposed subdivisions are complimentary to and functionally integrated with surrounding development and the town's street network to the greatest extent feasible;
- ~~(8)~~(4) Proposed subdivisions are designed to conserve energy and be energy efficient; ~~and~~

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(5) Proposed subdivisions are designed to avoid, mitigate and/or minimize (listed in order of preference) adverse environmental effects to the greatest extent feasible; and

(6) Proposed subdivisions are designed to mitigate or reduce the effects of climate change.

(9)

4028-B1028.C

Sketch Plan Review and Classification (Step 1)

- (1) **Application.** The applicant must file a complete application and sketch plan for review by the Zoning Administrator.
- (2) **Notification.** The Zoning Administrator must notify the owners of all properties adjacent to the subject property (includes those across the street) in writing of the applicant's intent to subdivide the subject property. The notification must include a description of the proposed subdivision and must clearly explain to the recipient where to obtain additional information. [\[why are only abutters automatically notified. Transparency requires the town to be notified.\]](#)
- (3) **Classification.** The Zoning Administrator will classify an application for a proposed subdivision as follows:
 - (a) **Major Subdivision.** An applicant for a major subdivision approval must submit a preliminary and then a final plan for review and approval by the Development Review Board in accordance with the provisions of this section. A subdivision that includes any of the following will be a major subdivision:
 - (i) The creation of ~~5~~ 2 or more lots from one or more contiguous tracts of land under common ownership in any 5-year period (inclusive of the parent parcel);
 - (ii) The re-subdivision of a lot within 10 years (will not include lot line adjustments, lot mergers or the creation of footprint lots); or
 - (iii) The construction of a new, extended or upgraded street.
 - (b) **Minor Subdivision.** An applicant for a minor subdivision approval may ~~skip~~ waive the preliminary approval process and submit a final plan for review and approval by the Development Review Board in accordance with the provisions of this section. A subdivision that does not meet the definition of a major subdivision will be a minor subdivision.
- (4) **Written Response.** The Zoning Administrator must send the applicant a written response to a complete sketch plan application within 30 days of its filing that:
 - (a) Indicates whether the subdivision as proposed generally conforms to the standards of these regulations;
 - (b) Makes recommendations to guide the applicant in preparation of more detailed plans;
 - (c) Requests any additional application materials deemed necessary to determine compliance with these regulations; and
 - (d) Classifies the proposed subdivision as either a major or minor subdivision in accordance with [Paragraph \(3\)](#) above.

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- (5) **Deadline to Act.** After the Zoning Administrator issues the written response, the applicant will have 180 days to file the materials required for the next step of the subdivision review process.
- (6) **Appeals.** The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in § 1033. However, the Zoning Administrator's written response to the sketch plan application will not constitute a formal decision on the subdivision plan for the purposes of any subsequent appeal to the Environmental Division of the Vermont Superior Court. [\[Comment: Why does the ZA's written response to the sketch plan application not constitute a formal decision?\]](#)

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~~1028.C~~1028.D **Preliminary Plan Review (Step 2 for major subdivisions only)**

- (1) **Application.** An applicant for major subdivision approval must file a complete application and preliminary subdivision plan for consideration by the Development Review Board.
- (2) **Hearing and Notice.** The Development Review Board must hold a public hearing and act on a preliminary subdivision plan in accordance with § 1101 - § 1105.
- (3) **Written Response.** The Development Review Board must issue a written response to the preliminary plan that includes:
 - (a) Findings of fact that address each of the applicable criteria in [Figure 1-01](#) ~~Figure 1-01~~;
 - (b) Any proposed conditions of approval to be placed on the final plan;
 - (c) Any specific changes requested in the final subdivision plan;
 - (d) The issues to be analyzed and addressed in the final subdivision plan review;
 - (e) Any modification or waiver of application requirements for final plan review. The Development Review Board may:
 - (i) Request any additional application materials deemed necessary to determine compliance with these regulations; and
 - (ii) Modify or waive application requirements deemed unnecessary to determine compliance with these regulations.
- (4) **Deadline to Act.** Following the Development Review Board issuing a written response, the applicant will have 180 days to file the final subdivision plan.
- (5) **Appeals.** The written response to a preliminary subdivision plan is intended to provide direction to the applicant in preparing the final subdivision plan. It is not a binding decision on the subdivision application and therefore cannot be appealed under § 1034.

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~~1028.D~~1028.E **Final Plan Review (Step 2 for minor subdivisions and Step 3 for major subdivisions)**

- (1) **Application.** The applicant must file a complete application and final subdivision plan for consideration by the Development Review Board.

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- (2) **Purpose.** The purpose of final review is to evaluate the plan's conformance with the purposes and specific standards of these regulations and, for major subdivisions, to assure that the applicant has addressed the issues raised during the preliminary plan review. [\[Comment: Any section or statement that expresses a purpose or intent or reasoning is a policy not a regulation, and should be the first section/sub-section in any regulatory document. Here, this sub-section should be 1028.E \(1\), and what is shown above as 1028.E \(1\) should be 1028.B \(2\). This type of expression is important to the DRB for interpreting the language of the regulations when there is an ambiguity or vagueness in the regulatory language.\]](#)
- (3) **Hearing and Notice.** The Development Review Board must hold a public hearing and act on a final subdivision plan in accordance with [§ 1101 - § 1105](#). If a proposed subdivision will be located within 500 feet of the town line, a copy of the hearing notice must be sent to the clerk of the adjoining municipality.
- (4) **Acceptance of Improvements.** The Development Review Board's approval of a final plan will not constitute the town's acceptance of any street, easement, open space or other feature shown on the plan. Action by the Board of Aldermen is required to accept any street, easement, open space or other feature.

[1028.F1028.F](#) **Filing Requirements (Step 3 for minor subdivisions and Step 4 for major subdivisions)**

- (1) If the Development Review Board approves the final plan, the applicant will have 180 days to submit a final subdivision plat for recording in the town's land records. If the subdivision will be phased, the applicant must file a plat for the first phase within 180 days and for subsequent phases in accordance with the schedule established in the conditions of approval.
- (2) The Zoning Administrator may grant a 90-day extension to the filing deadline upon written request by the applicant if other local or state permits are still pending.
- (3) The final subdivision plat must meet all state requirements (see 27 V.S.A. § 1403).
- (4) The Zoning Administrator or the Chair of the Development Review Board must sign the final subdivision plat before it is recorded in the town land records.
- (5) ~~No one must make any changes, erasures, modifications or revisions to a final plat after it has been signed~~ [are permitted under any circumstances. \[Comment: the original language can be read as meaning "No one is required to make any changes".\]](#)
- (6) Once lawfully filed, a final subdivision plat will not expire.
- (7) The applicant must also provide the Zoning Administrator with a digital copy of the final subdivision plat as an Adobe PDF or other file type approved by the Zoning Administrator.
- (8) ~~Landowners are advised to~~ [must](#) file new or revised deeds in accordance with state law for all lots created or modified by a development approval when filing a plat to ensure the lots have clear, marketable titles. [\[Comment: The original language is advisory, not regulatory.\]](#)

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[1028.F1028.G](#) **Modification of Approved Subdivisions**

- (1) Except for lot line adjustments or lot mergers approved under [§ 1026](#) or footprint lots approved under [§ 1027](#), the Development Review Board must review any request to amend an approved subdivision plat.
- (2) The process for applying for an amendment will be the same as for the original approval.

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- (3) The process for reviewing and issuing a decision on an amendment will be the same as for the original approval except that the scope of the review will be limited to those aspects of the plat affected by the proposed amendment.
- (4) The applicant must file an approved, amended plat in accordance with the provisions of this section.

§ 1029 COMBINED REVIEW

1029.A When proposed development requires more than one approval from the Development Review Board, a single hearing may be held for the purpose of reviewing and acting on the application unless the applicant requests separate hearings for each development approval.

~~1029.B~~ The Zoning Administrator ~~will~~ must identify applications appropriate for combined review and ~~assist~~ provide information to applicants ~~in~~ regarding preparing and submitting coordinated applications to facilitate combined review. ~~The Zoning Administrator must not provide strategic or tactical advice that could be obtained from an attorney, engineer, or other person or entity knowledgeable about land use planning and development that an applicant could hire.~~

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~~1029.B~~

1029.C The Development Review Board must hold a public hearing and act on an application for combined review in accordance with ~~§ 1101 - § 1105~~. In addition, the hearing notice must:

- (1) Include a statement that the hearing will be a combined review of the proposed development; and
- (2) List each type of review the Development Review Board will conduct.

1029.D The standards specified in ~~Figure 1-01~~Figure 1-01 for each review process will apply.

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1029.E All hearing and decision requirements and deadlines applicable to each review process will apply.

1029.F The Development Review Board must issue separate written decisions for each review conducted as part of the combined hearing.

§ 1030 OBTAINING A ZONING PERMIT FOR APPROVED DEVELOPMENT

1030.A The applicant must obtain a zoning permit for the land development (other than a subdivision) authorized by a development approval within 12 months of the effective date of that approval otherwise the approval will expire and the applicant will need to apply for a new approval under the regulations in effect at the time of the new application. See Paragraph 1011.B, which allows the applicant to request a delay in effect for a zoning permit and/or development permit.

§ 1031 AMENDING APPROVED SITE PLANS

1031.A The Development Review Board must review any request to amend an approved site plan that the Zoning Administrator cannot approve under § 1012 (for amendment of subdivision plats, see § 1028).

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1031.B The process for applying for an amendment ~~will~~ **must** be the same as for the original approval.

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1031.C The process for reviewing and issuing a decision on an amendment ~~will~~ **must** be the same as for the original approval except that the scope of the review ~~will be~~ **is** limited to those aspects of the approved development affected by the proposed amendment.

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1031.D The applicant must demonstrate that the proposed amendment is justified due to changes:

- (1) In factual or regulatory circumstances that were beyond the applicant's control; or
- (2) In the construction or operation of the proposed development that were not reasonably foreseeable at the time of the original application.

1031.E The Development Review Board may determine that the proposed amendment would change the approved development to such an extent that it needs to be reviewed as a new application, and may deny the amendment request and require the applicant to apply for a new zoning permit and any associated development approvals.

1031.F The approval of an amendment ~~will~~ **must** not affect the expiration date of the original permit and any associated development approvals.

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Figure 1-01. Development Review Criteria

REVIEW CRITERIA (✓= required)	SITE PLAN	CONDITIONAL USE	SUBDIVISION OR PUD
1 The dimensional standards of the proposed development conform to the standards of the applicable district or of [cross-reference] if a pre-existing nonconformity.	✓	n/a	✓
2 The impacts of the proposed development will not exceed the levels established in [cross-reference] and outdoor use and activity areas associated with the proposed development will meet the standards of [cross-reference].	✓	n/a	n/a
3 The proposed development will provide safe and adequate access and circulation for motorists (including service vehicles), bicyclists and pedestrians that conforms to the standards of [cross-reference]	✓	n/a	✓
4 The proposed development will provide sufficient parking and loading areas that conform to the standards of [cross-reference].	✓	n/a	n/a
5 The proposed development will provide exterior lighting where necessary for public safety and nighttime use that conforms to the standards of [cross-reference].	✓	n/a	✓
6 The proposed development will include landscaping, screening and buffers to add visual appeal and mitigate impacts that conform to the standards of [cross-reference].	✓	n/a	✓
7 The proposed development will implement erosion control and stormwater management practices that conform to town public works specifications and the standards of [cross-reference].	✓	n/a	✓
8 The proposed development will conform to town specifications for construction of necessary improvements (streets, sidewalks, driveways, utilities, etc.), building codes, and standards for emergency access.	✓	n/a	✓
9 The proposed development will conform to all applicable zoning district (including overlay districts) and specific use standards.	✓	✓	✓
10 The demand for water supply, wastewater, educational, recreation, public safety, emergency response and other municipal services to serve the proposed development will be reasonable and will not create an undue adverse effect upon the capacity existing or planned (as established in any duly adopted capital budget and program) community facilities or services.	n/a	✓	✓
11 The proposed development will be compatible with and will not have undue adverse impacts on the character of the neighborhood, and will not substantially or permanently impair the lawful use or development of adjacent property. This criteria will not apply to conditional use applications for one, two, three or four unit residences.	n/a	✓	✓
12 Traffic generated by the proposed development will not exceed the capacity of, unreasonably reduce the service level of, create congestion on, and/or contribute to unsafe conditions for motorists, bicyclists and pedestrians on streets or at intersections in the vicinity.	n/a	✓	✓
13 The proposed development will avoid, minimize and/or mitigate (listed in order of preference) undue adverse effects on significant natural resources and the environment.	n/a	✓	✓
14 The proposed development will incorporate appropriate energy conservation and efficiency measures (including the use of renewable energy), and will meet or exceed state energy code requirements.	n/a	✓	✓
15 The proposed development will not result in an undue adverse impact on the ability of adjacent landowners to utilize renewable energy resources.	n/a	✓	✓
16 The proposed development will logically extend existing settlement patterns and create interconnected street networks to the maximum extent feasible given the terrain and other characteristics of the land.	n/a	n/a	✓
17 The proposed development will be designed and laid out to make efficient use of land and to minimize the number of streets and other infrastructure necessary to serve the lots.	n/a	n/a	✓

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REVIEW CRITERIA (✓= required)	SITE PLAN	CONDITIONAL USE	SUBDIVISION OR PUD
18 Lots within the proposed development will vary in size and frontage, and buildings will vary in design and placement (i.e., not a 'cookie-cutter' subdivision).	n/a	n/a	✓

IMPORTANT: There must be criteria for avoiding breaking up or otherwise disturbing forest blocks, and there must be criteria for protecting and preserving the farmability of farmland.

Appeals

§ 1032 WHO MAY APPEAL

1032.A An applicant or other interested person may appeal an action taken or decision made under these regulations as specified in this subchapter.

1032.B For the purposes of these regulations, an interested person is:

- (1) An applicant who alleges that these regulations impose unreasonable or inappropriate restrictions on the existing or future use of their property.
- (2) The Town of Norwich or any adjoining municipality.
- (3) A person owning or occupying property in the immediate area of proposed development who can demonstrate:
 - (a) A physical or environmental impact on the person's interests; and
 - (b) That the action taken or decision made under these regulations is not in accord with the policies, purposes, or terms of these regulations or the *Norwich Town Plan*, as most recently adopted.
- (4) Any combination of at least 10 voters or landowners in the Town of Norwich who by signed petition allege that the relief an applicant is requesting under this subchapter is not in accord with the policies, purposes, or terms of these regulations or the *Norwich Town Plan*, as most recently adopted.
- (5) Any department or administrative subdivision of the state that owns property or interest in property in the Town of Norwich, and the Vermont Agency of Commerce and Community Development.

§ 1033 APPEALS OF ZONING ADMINISTRATOR DECISIONS

1033.A An interested person may appeal any action or decision of the Zoning Administrator to the Development Review Board by filing two copies of a notice of appeal and any applicable fees with the Town Clerk within 15 days of the date of the Zoning Administrator's action or decision.

1033.B The Town Clerk will forward one copy of the notice of appeal to the Development Review Board and the other to the Zoning Administrator.

1033.C A notice of appeal must be in writing ~~(electronic service will not be accepted)~~ and must include all the following information:

- (1) The name and address of the appellant (the person filing the appeal);

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- (2) A statement that indicates how the appellant meets the definition of an interested person as established in § 1032;
- (3) A copy of the Zoning Administrator's decision or description of the action (if appealing a zoning permit, also include a copy of the permit application);
- (4) A brief description of the subject property, including the 911 street address;
- (5) A reference to the section(s) of these regulations that the appellant alleges the Zoning Administrator has not properly followed or applied; ~~and~~
- (6) A statement of the relief the appellant is requesting and why the appellant believes the requested relief to be appropriate under the circumstances; ~~and~~.

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~~(6)(7)~~ The signature of the appellant or appellant's duly appointed representative.

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1033.D If an appeal is filed by a group of interested persons, then the notice of appeal must designate one person to serve as a representative of the group regarding all matters related to the appeal.

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1033.E The appellant may request a stay of enforcement as part of the notice of appeal by including a sworn statement that irreparable damage will directly result if the Development Review Board does not grant the stay.

1033.F Upon receipt of a notice of appeal, the Development Review Board must either:

- (1) Hold a public hearing and act on the appeal in accordance with § 1101 - § 1105; or
- (2) Reject the appeal without a hearing and render a decision within 10 days of the appellant filing the notice, if the Development Review Board determines that:
 - (a) It decided the issues in an earlier appeal;
 - (b) The appellant failed to establish interested person status in accordance with § 1032; or
 - (c) The notice of appeal does not include the information required in this section.

1033.G An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action or decision of the Zoning Administrator. [Comment: Is this an application of the requirement that all administrative remedies must be exhausted before suit can be brought in the courts? Maybe there should be a note to that effect, so as to make this clear to the ordinary person who might need to appeal, but not be familiar with that particular legal requirement.]

1033.H If no interested person appeals the Zoning Administrator's action or decision to the Development Review Board within 15 days, the action or decision will not be able to be contested later.

§ 1034 APPEALS OF DEVELOPMENT REVIEW BOARD DECISIONS

1034.A Any interested person who participated in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days of the date of the board's action or decision.

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1034.B All final hearings for site plan, conditional use and subdivision applications, and for appeals (including dimensional waivers and variances) before the Development Review Board ~~will be~~ are subject to on the record appeal in accordance with the Vermont Rules of Civil Procedure.

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1034.C The appellant must send a notice of appeal to every interested person who participated in the hearing by certified mail. The Zoning Administrator must provide a prospective appellant with the interested person list upon request.

1034.D If the Zoning Administrator has issued a zoning permit based on a Development Review Board approval, the appeal of that approval ~~will~~ must be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved. An interested person cannot use the procedures of § 1033 to appeal the Zoning Administrator's issuance of a zoning permit implementing a Development Review Board approval.

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1034.E An appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action or decision of the Development Review Board except as otherwise provided by state statute.

1034.F If no interested person appeals a Development Review Board action or decision to the Environmental Division of the Vermont Superior Court within 30 days, all interested persons will be bound by that action or decision and will not be able to contest it later.

§ 1035 DIMENSIONAL WAIVERS

1035.A The Development Review Board:

- (1) May approve dimensional waivers as specifically authorized in these regulations;
- (2) May approve dimensional waivers that authorize an adjustment of up to 30% to a dimensional standard (as established for the applicable zoning district) of these regulations;
- (3) Must not approve dimensional waivers within the Flood Hazard Overlay District;
- (4) Must not approve dimensional waivers to reduce any riparian or wetland setback or buffer required under these regulations; and
- (5) Must not approve a dimensional waiver to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

1035.B The applicant must file a complete zoning permit application and a written request for a dimensional waiver with the Zoning Administrator that includes all the following:

- (1) A brief description of the subject property and proposed development;
- (2) A reference to the standard(s) of these regulations that the applicant is requesting a dimensional waiver from;
- (3) The specific modification(s) that the applicant is requesting; and
- (4) A response to each of the criteria that the Development Review Board will use to decide whether to approve the dimensional waiver (see [Figure 1-02](#)).

1035.C The Development Review Board must hold a public hearing and act on the dimensional waiver request in accordance with § 1101 - § 1105.

1035.D To approve a dimensional waiver, the Development Review Board must find that all the applicable criteria specified in [Figure 1-02](#) have been met.

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§ 1036 VARIANCES

There should be a section reciting the purpose of a waiver and variance, which show the difference between the two – It may be that one or the other (probably waiver) may be redundant or obsolete.

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§ 1036

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1036.A The Development Review Board:

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- (1) May approve variances that authorize adjustments to the dimensional standards of these regulations under the specific circumstances described in this section.
- (2) Must not approve a variance to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of these regulations.

1036.B The applicant must file a complete zoning permit application and a written request for a variance with the Zoning Administrator that includes all the following:

- (1) A brief description of the subject property and proposed development;
- (2) A reference to the specific provision(s) of these regulations that the applicant is requesting a variance from;
- (3) The specific modification(s) that the applicant is requesting; and
- (4) A response to each of the criteria that the Development Review Board will use to decide whether to approve the variance (see Figure 1-02).

1036.C The Development Review Board must hold a public hearing and act on the variance request in accordance with § 1101 - § 1105.

1036.D To approve a variance, the Development Review Board must find that all the applicable criteria specified in Figure 1-02 have been met as follows:

- (1) If the variance is for a renewable energy structure, only the criteria specific to a renewable energy variance apply;
- (2) If the variance is for development within the Flood Hazard Overlay District, only the criteria specific to a flood hazard variance apply; or
- (3) For all other variances, the general variance criteria apply.

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Figure 1-02. Dimensional Waiver and Variance Review Criteria

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1 The proposed development will not alter the essential character of the neighborhood in which the property is located.	✓	✓	✓	✓
2 The proposed development will not substantially or permanently impair the lawful use or development of adjacent property.	✓	✓	✓	✓
3 The proposed development will not be detrimental to public health, safety or welfare.	✓	✓	✓	✓
4 The applicant is proposing the least deviation possible from these regulations that will afford relief.	✓	✓	✓	✓
5 The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.	✓	n/a	n/a	n/a
6 The applicant has not created the unnecessary hardship.	n/a	✓	✓	✓
7 There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.	n/a	✓	n/a	✓
8 It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	n/a	n/a	✓	n/a
9 The proposed development will not reduce access to renewable energy resources on adjacent property.	n/a	n/a	✓	n/a
10 The proposed land development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	n/a	n/a	n/a	✓

IMPORTANT: [There must be criteria for avoiding breaking up or otherwise disturbing forest blocks, and there must be criteria for protecting and preserving the farmability of farmland.](#)

110 Notice, Hearings and Decisions

§ 1101 NOTICE OF HEARING

1101.A The Zoning Administrator must notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision or planned unit development applications by all the following:

- (1) Publishing the date, place and purpose of the hearing in a newspaper of general circulation in the Town of Norwich.
- (2) Posting the date, place and purpose of the hearing at the Town Office and at least one other public place within the town.

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(3) Providing the applicant with a sign with the date, place and purpose of the hearing to be posted within view from the public right-of-way most nearly adjacent to the subject property.

(a) ~~It will be the applicant's responsibility to~~ **The Applicant must** ensure that the notice remains posted for the entire warning period and to remove the sign within 2 days of the close of public hearing.

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(4) Notifying the owners of all properties adjoining the subject property (including those across the street) in writing.

(a) The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that participating in the hearing is a prerequisite to having the right to any subsequent appeal.

1101.B The Zoning Administrator must notify the public at least 7 days before a hearing for all other Development Review Board actions by all the following:

(1) Posting the date, place and purpose of the hearing at the Town Office and at least two other public places within the town.

(2) Notifying the owners of all properties adjoining the subject property subject (including those across the street) in writing by standard mail or electronic service. The notification must:

(a) Include a description of the proposed project;

(b) Identify where the recipient can obtain additional information; and

(c) Explain that the recipient must participate in the hearing in order to have the right to any subsequent appeal.

1101.C A defect in the form or substance of the public notice requirements ~~will~~ **does** not invalidate any action or decision under these regulations when a reasonable effort has been made to provide adequate posting and notice.

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§ 1102 SITE VISITS

1102.A ~~The Zoning Administrator or~~ Development Review Board may require ~~an applicant to grant~~ access to a site in order to better understand the proposed development and its potential impacts prior to making a decision on an application.

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1102.B A site visit must be noticed in accordance with ~~§ 1101~~ and open to the public if a quorum of Development Review Board members will be present.

1102.C Observations made and information obtained during the site visit ~~will~~ **must** not be part of the evidentiary record of a Development Review Board hearing unless the observations or information are entered into the record as written or oral testimony during the hearing on the application.

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§ 1103 CONDUCTING A HEARING AND TAKING EVIDENCE

1103.A The Development Review Board must conduct public hearings, hear testimony and take evidence according to the Municipal Administrative Procedures Act (24 V.S.A. Chapter 36), the provisions of this section and its adopted rules of procedures. All hearings must be recorded.

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1103.B The Development Review Board must hold a public hearing within 60 days of the Zoning Administrator determining that an application is complete unless otherwise specified in these regulations or the applicant agrees to a later hearing date.

1103.C All hearings must be open to the public as follows:

- (1) Any individual or group may appear and participate in a public hearing in person, through electronic means or by authorized representative or counsel, or may submit written testimony in advance of the hearing. All testimony must be made under oath or affirmation.
- (2) The Development Review Board must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
- (3) The Development Review Board must give all those wishing to establish interested person status the opportunity to do so and must record the name, address and participation of each of those people. Only an interested person (as defined in § 1032) who has participated in a hearing by presenting oral or written testimony will have a right to appeal the resulting Development Review Board decision under § 1034.

1103.D In taking evidence during a hearing, the Development Review Board may:

- (1) Exclude irrelevant, immaterial, or unduly repetitious evidence;
- (2) Receive evidence in written form, including copies and excerpts;
- (3) Allow parties to conduct cross-examinations and compare copies of written evidence with the original; and
- (4) Take notice of generally recognized facts.

1103.E The applicant or an authorized representative must be present (in person or by electronic means) at any public hearing on their application.

- (1) The Development Review Board may recess or continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
- (2) In the case of such a recess or continuation, the intervening days will not be counted as part of any period within which the Development Review Board is required to act.

1103.F Development Review Board members must not communicate directly or indirectly with any applicant, interested person or their representative regarding a matter that is under consideration except during a properly noticed site visit or hearing.

1103.G ~~It is the applicant's responsibility to~~ **The Applicant must** demonstrate compliance with the applicable standards and review criteria of these regulations. The Development Review Board may recess or continue a hearing and require an applicant to provide additional information as necessary to determine compliance with these regulations.

1103.H The Development Review Board must close the hearing promptly, once all information has been submitted and all those wishing to give testimony have been heard.

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§ 1104 RECESSING OR CONTINUING A HEARING

1104.A The Development Review Board may recess or continue a hearing on any application pending submission of additional information necessary to determine compliance with these regulations or upon the applicant’s request.

1104.B If the Development Review Board recesses or continues a hearing to a specific time, date and location, the hearing will not have to be warned again when resumed.

§ 1105 DECISIONS

1105.A **Deliberations.** After closing the hearing, the Development Review Board must deliberate and make a decision on the application in a closed deliberative session. Minutes of deliberative sessions and a written record of the individual votes of board members on an application are not required.

1105.B **Time to Act.** Within 45 days of closing a hearing, the Development Review Board must issue a written decision to approve, approve with conditions or deny the application.

1105.C **Deemed Approval.** If the Development Review Board does not issue a decision within 45 days of closing a hearing, the applicant may file an appeal directly with the Environmental Division of the Vermont Superior Court to recognize that the board’s failure to act resulted in a “deemed approval” of the application.

(1) Deemed approval is not applicable in cases in which when a municipal panel actually makes a decision within the prescribed statutory period, even if the actual notice of the decision, and of the bases for the decision, is not sent to the applicant until after expiration of that time period. [See In re Appeal of Morrill House, LLC and Smith Variance, 2011 VT 117, ¶¶ 10, 11 -- Comment: citation not necessary for inclusion in regulation. Incorporated here for informational purposes.]

1105.C

1105.D **Findings.** The written decision must include a statement of the facts upon which the Development Review Board is basing its decisions and a statement of conclusions relating to the applicable review criteria and standards of these regulations.

1105.E **Conditions of Approval.** The Development Review Board:

- (1) May attach any conditions it deems necessary to an approval to achieve the purposes of these regulations including, but not limited to:
 - (a) Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;
 - (b) Required improvements to public facilities or infrastructure to serve the proposed development;
 - (c) Scheduling or phasing of development;
 - (d) Inspection or monitoring; and/or
 - (e) Performance bonds.

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- (2) Must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board approval ~~will~~ **must** be ~~considered~~ part of any subsequent zoning permit issued by the Zoning Administrator for the approved development.

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1105.F **Submittal of Revised Plans.** If the Development Review Board attaches conditions on an approval that require amendments to a plan, the applicant must submit an amended plan that satisfies those conditions prior to Zoning Administrator issuing a zoning permit for the proposed development.

1105.G **Notification and Filing.** The Development Review Board must:

- (1) Send a copy of the decision to applicant by certified mail unless the applicant agrees to electronic service;
- (2) Send a copy of the decision to all others who participated in the hearing by standard mail unless the person agrees to electronic service; and
- (3) File a copy of the decision with the Zoning Administrator.

1105.H **Effect and Expiration.** A development approval ~~will~~ **must** expire if the applicant does not obtain a zoning permit for the approved development within 12 months of the final decision being issued unless otherwise specified in the conditions of approval. If the approved development is:

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- (1) Not substantially completed or commenced before the zoning permit expires as established in § 1011, the development approval ~~will~~ **must** expire with the zoning permit, except that approved subdivision plats lawfully filed in accordance with § 1028 will not expire.
- (2) Substantially completed or commenced before the zoning permit expires as established in § 1011, the development approval ~~will~~ **must** remain in effect unless the use is discontinued. Development approvals and any related conditions run with the land and remain in effect irrespective of whether the property changes ownership or tenancy.

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120 **Violations and Penalties**

§ 1201 **APPLICABILITY**

1201.A The Zoning Administrator must enforce these regulations in accordance with state law and the provisions of this chapter. Violations of these regulations include, but are not limited to:

- (1) Commencing land development for which zoning permit or development approval is required without first obtaining such an approval or permit;
- (2) Failing to comply with all requirements, representations and conditions of any approved plan or permit;
- (3) Commencing or continuing land development if the permit or approval authorizing the work has expired;
- (4) Commencing site preparation or other land development prior to subdivision approval; and

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- (5) Selling, transferring or offering to sell or transfer land unless a subdivision plat has been approved and filed in full compliance with these regulations.

1201.B A violation of these regulations ~~will~~ constitutes a civil offense enforced in accordance with the provisions of 24 V.S.A. §1974(a) or 24 V.S.A. §4451.

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1201.C Nothing in this chapter ~~will~~ must prevent the Town of Norwich from exercising its authority to abate or remove risks or hazards to public health, safety and welfare, or to respond to emergencies or disasters.

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§ 1202 COMPLAINTS, INVESTIGATION AND ACTION

1202.A **Complaints.** Complaints about alleged violations of these regulations must be made in writing (electronic service is acceptable). Written complaints constitute a public record that the Town of Norwich is obligated to provide to anyone who requests a copy. Complaints must include:

- (1) The name and address of the complainant;
- (2) The address of the property subject to the alleged violation;
- (3) A description of the alleged violation; and
- (4) A reference to the specific provision(s) of these regulations and/or the conditions of a permit or development approval that the complainant alleges are being violated.

1202.B **Investigation.** The Zoning Administrator must investigate alleged violations of these regulations.

1202.C **Inspection.** The Zoning Administrator ~~may~~ must ask the landowner for permission to inspect the property. If the landowner refuses to grant permission to inspect the property, the Zoning Administrator:

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- (1) ~~May~~ enter the public portions of any property in the town (i.e., drive up driveway, walk to the door, etc.) and may use any observations made as evidence;
- (2) May enter private portions of the property if invited by anyone who is lawfully on the premises (i.e., occupant, tenant, etc.) and may use any observations made as evidence; and
- (3) May obtain a search warrant to inspect the property and gather evidence in accordance with 13 V.S.A. § 4701.

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1202.D **Burden of Proof.** The Zoning Administrator does not have to directly observe that a violation exists and ~~may~~ must enforce these regulations if there is reason to believe a violation exists (i.e., complaint from a neighbor, evidence of materials being hauled/delivered, observations made from adjacent property or the street, refusal to allow inspection, etc.).

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1202.E **Action.** Upon determining that a violation exists or is reasonably believed to exist, the Zoning Administrator must take appropriate action to enforce these regulations including, but not limited to any combination of the following:

- (1) Contacting the landowner to resolve the violation informally;
- (2) Issuing a municipal civil complaint ticket (see § 1204) or a notice of violation (see § 1205);
- (3) Issuing a stop-work order;

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- (4) Requiring the landowner to apply for a curative zoning permit;
- (5) Requiring the immediate removal of a violating structure or cessation of a violating use;
- (6) Denying a certificate of compliance; and/or
- (7) Imposing fines and penalties to the maximum extent allowed under state law until the landowner remedies the violation.

1202.F **Limitations on Enforcement.** The Zoning Administrator must not enforce any violation:

- (1) That has existed for more than 15 years; or
- (2) Of a zoning permit that was issued after July 1, 1998 and was not filed in the town's land records.

§ 1203 LIABILITIES AND PENALTIES

1203.A The landowner ~~will~~ must be held responsible for any violation and be subject to any penalties imposed under these regulations.

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1203.B Each day that a violation exists constitutes a separate offense under ~~§ 1204~~ and ~~§ 1205~~. The Zoning Administrator or other authorized town officials or employees ~~may~~ must issue separate tickets and impose fines for each day that a violation exists.

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1203.C If any enforcement action results in the need for a new or amended zoning permit or development approval, the Town of Norwich ~~may~~ must impose penalties in addition to the standard permit fees.

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§ 1204 MUNICIPAL CIVIL COMPLAINT TICKET

1204.A The Zoning Administrator or other authorized town officials or employees may issue a municipal complaint ticket for any violation of these regulations in accordance with the Judicial Bureau's procedure for municipal complaint tickets.

1204.B A violation ticketed under this section will be punishable by a fine of:

- (1) \$200 for a first offense, with a waiver fee of \$100.
- (2) \$400 for a second offense ticketed for the same violation within 12 months, with a waiver fee of \$200.
- (3) \$800 for a third and any subsequent offense ticketed for the same violation within 12 months, with a waiver fee of \$400.

1204.C Upon the ~~fourth~~ third offense, the Town of Norwich ~~may~~ must request that the case be transferred from the Judicial Bureau to the Environmental Division of Superior Court or another court of competent jurisdiction.

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§ 1205 NOTICE OF VIOLATION

~~§ 1205~~ This section must list any and all violations that warrant a violation or informal resolution rather than a civil complaint ticket. The type of violations in this section must not overlap with those susceptible to a ticket pursuant to section 1204. This section leaves itself open to subjective judgments and personal biases as drafted.

1205.A The Zoning Administrator may issue a notice of violation for any violation of these regulations. Prior to issuing a notice of violation, the Zoning Administrator may seek to resolve a violation informally.

1205.B The Zoning Administrator must:

- (1) Send a notice of violation to the landowner by certified mail that:
 - (a) Describes the violation;
 - (b) Identifies the specific provision(s) of these regulations being violated;
 - (c) States the specific action required to cure the violation;
 - (d) States that if the landowner has 7 days to cure the violation, after which time the town may institute court proceedings to obtain a court order directing compliance with these regulations and awarding fines up to the maximum amount allowed under state statute for each day that the violation continues from the date of the notice;
 - (e) States that further enforcement may occur without notice and an opportunity to cure if the violation occurs again within the next 12 months; and
 - (f) States that the notice of violation may be appealed as per § 1033.
- (2) Deliver a copy of a notice of violation to the Town Clerk for recording in the town's land records.
- (3) Upon failure of the landowner to cure a violation of these regulations, the Town of Norwich may institute appropriate court action.

1205.C A notice of violation issued under this section will be punishable by a fine of up to \$200 for each offense (each day a violation continues to exist beyond the 7-day notice period counts as a separate offense).

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