
ARTICLE 4. ADMINISTRATION & ENFORCEMENT

Section 4.1 Administration

These regulations shall be administered by the Waitsfield Development Review Board, as authorized by the Act [§4460].

Section 4.2 Fees

(A) Application fees for minor subdivision approval, major subdivision preliminary approval, or major subdivision final approval shall be established by the Selectboard. Such fee(s) shall include the costs for publishing hearing notices and conducting public hearings, administrative review and for periodic inspections by town retained consultants during the installation of public improvements.

(B) Should the Development Review Board deem it necessary to employ an engineer, attorney, design professional or other consultant to review any subdivision plans, applications, supporting reports or studies, or portion thereof, and/or any associated legal documentation, all costs of such review shall be paid by the subdivider after notification by the Development Review Board.

Section 4.3 Hearing Notice Requirements

(A) In accordance with the Act [§4464], a warned public hearing shall be required for preliminary and/or final subdivision review (Section 2.3 and Section 2.4). Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:

- (1) publication, by the Town, of the date, place and purpose of the hearing in a newspaper of general circulation in the town,
- (2) posting, by the Town, of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
- (3) written notification to the applicant and to owners of all properties adjoining the property subject to subdivision, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and
- (4) for hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality [§4463(a)].

(B) The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying owners of adjoining properties as required under subsection (A), as determined from the current municipal grand list and associated parcel maps. The applicant may be required to demonstrate proof of delivery to owners of adjoining properties either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

(C) No defect in the form or substance of any required public notice under this section shall invalidate the action of the Development Review Board where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Development Review Board or the Environmental Court, the action shall be remanded to the Development Review Board to provide new posting and notice, hold a new hearing, and take a new action.

Section 4.4 Enforcement & Penalties

- (A) The enforcement of these regulations shall be the responsibility of the Zoning Administrator in accordance with the Act [§§4448, 4451, 4452].
- (B) Any person who violates any of the provisions of these regulations may be fined pursuant to the Act [§4451] for each offense; and each day that a violation continues shall constitute a separate offense.
- (C) Any person who sells or transfers any land in a subdivision or land development or erects any structure thereon without first having recorded a duly approved final plat under these regulations may be fined pursuant to the Act [§4451]; and each lot, parcel, or unit so sold or transferred shall be deemed a separate violations.
- (D) Nothing herein contained shall be deemed to bar any other legal or equitable remedy provided in the Act [§4452], or otherwise to restrain, correct or prevent any violations of these regulations or prosecute violators thereof except as provided below.
- (E) The Town shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§4454].

Section 4.5 Appeals

- (A) In accordance with the Act [§4471], an interested person who has participated in a regulatory proceeding of the Development Review Board may appeal a decision rendered by the Development Review Board under Sections 2.3 or 2.4, within 30 days of such decision, to the Vermont Environmental Court.
- (1) “Participation” in a Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Waitsfield Town Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Interested Person: the definition of an interested person under the Act [§4465(b)] includes the following:

- the Town of Waitsfield or an adjoining municipality;
- a person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person’s interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or regulations of the town;
- any ten (10) voters or property owners within the town who, by signed petition to the Development Review Board, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the town; and
- any department or administrative subdivision of the state owning property or any interest therein within the town or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

(B) **Notice of Appeal.** A notice of appeal filed under this section shall be in writing and include the following information, in accordance with the Act [§4466]:

- (1) the name and address of the appellant;
- (2) a brief description of the property with respect to which the appeal is taken;
- (3) a reference to applicable provisions of these regulations;
- (4) the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
- (5) the alleged grounds why such relief is believed proper under the circumstances.

Section 4.6 Town Recording Requirements

Pursuant to the Act [§4449], within 30 days after the issuance of a municipal land use permit has been issued, including but not limited to approvals for land subdivision in accordance with these regulations, or within 30 days of the issuance of any notice of violation, the Zoning Administrator or other appropriate municipal official shall deliver a notice of violation or memorandum or notice of municipal land use permit to the Town Clerk for recording as provided in 24 V.S.A. subsections 1154(a) or (b). The applicant may be charged for the cost of recording fees.