



Planning and Permitting Innovations Statutes Addressing Administrative Review

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Statutes & Charters...

- The Planning and Development Act (24 VSA Chapter 117) generally governs municipal development regulations, including review processes and requirements, *but first* ...
- Check your municipal charter for municipal positions, appointments, and review authorities that may differ from statute...

§ 4328. Terms of office inconsistent with charter provisions

When a charter of a municipality exists having terms respecting the appointment and authority of municipal officials, relating to their activities under this chapter, which terms are inconsistent with this chapter, those terms of that charter shall prevail.

Administrative Officer (AO)

- **AKA Zoning Administrator** (§ 4448) ...
 - Required statutory 3-year appointment (for all bylaws)
 - Nominated by Planning Commission, appointed by Legislative Body
 - May hold any other office in the municipality (Planning Director, etc.)
 - Cannot serve on the Development Review Board or Board of Adjustment (which hear appeals of AO decisions)
- **Acting/Assistant Administrative Officer(s)**
 - Optional appointment(s)
 - Acts in the absence of, or may assist the Administrative Officer
 - Authority, respective to the Administrative Officer, defined by municipality

AO Authority, Duties

24 V.S.A. § 4448

Coordinate Development Review Process

- Primary public contact
- Process all applications – zoning permits, referrals to “appropriate municipal panels”

Conduct administrative reviews

- “Permitted” uses that require only administrative review
- Other types of administrative review *as specified in the regulations*

No discretionary authority

The administrative officer shall administer the bylaws literally and shall not have the power to permit any land development that is not in conformance with those bylaws.”

Decisions appealable to DRB or Board of Adjustment

- Admin zoning permits, approvals, and “judgment calls” under the regulations
- Expanded admin review allows for a local initial appeal process (vs. a court appeal)

Planning Director

May be appointed as AO and Planning Commission (§ 4321)

- **Option in “urban” municipalities** (dating from 1968)
 - City, incorporated village, town with a population $\geq 2,500$ (or by vote $\geq 5,000$)
 - Appointed by the Legislative Body
- **Substitutes for Planning Commission**
 - Assumes all powers, duties of a Planning Commission under local regulations

Note: Planning Commission, as an “Appropriate Municipal Panel” may conduct any type of development review specified under the regs (except appeals) – essentially § 4321 also gives this authority to the Planning Director
- **Planning Council** (optional)
 - Advisory to the Planning Director, appointed by the Legislative Body
 - Functions as assigned by the Legislative Body

Development Review: Comparison

Administrative Review

- Zoning Administrator (AO)
- “Permitted” uses, activities that don’t also require site plan review; boundary (lot line) adjustments; *other as specified in regs*
- Clearly prescribed standards (e.g., district dimensional requirements) that require little interpretation
- No public hearing requirement
- Decision/permit must be issued within 30 days of receipt of a complete application
- Appeals within 15 days to DRB or ZBA

Deliberative Review

- Appropriate Municipal Panel (DRB, PC, ZBA)
- Subdivision, site plan, conditional use, hazard area, design review (may be combined); advisory commission/committee review
- Standards, considerations may vary as applied to particular project, circumstances
- Warned public hearing(s) required, may be combined, continued as needed
- Decision must be issued within 45 days of the date of final hearing adjournment
- Appeals within 30 days to Court

Administrative Review

Advantages

- Clearly defined time limits
- Expedited permitting process
- No advanced public notice
- No public hearing requirement
- More limited 15-day appeal period
- Initial appeal in-house, to local DRB or ZBA

Disadvantages

- Hard 30-day statutory time limit
- Review authority vested in one person
- No flexibility in the application of regulatory standards
- No consideration of potential impacts to adjoining properties, community facilities, etc.
- No opportunity for public input or participation in the review process

“Expanded” Administrative Review

Bylaws may establish procedures for AO review, approval of new development, amendments to previously approved development, that would otherwise require AMP review § 4464(c)

- Bylaws must clearly specify “thresholds and conditions” for this type of review.
- Must be structured to avoid, as applied, any “substantial impacts” under relevant bylaw standards.
- No administrative amendment may substantially alter any finding of fact under a prior approval.

Benefit: Expedited review for preferred types of development with limited potential impact, under clearly stated (e.g., quantitative) standards.

Examples

- **Administrative site plan review** (under prescriptive site plan standards) – *avoids need for separate AMP site plan hearing/decision, especially for otherwise “permitted” uses*
- **Form based codes** (under prescriptive “form” standards) – *intended to simplify, expedite the permitting process in conformance with an adopted regulating plan*
- **Boundary/lot line adjustments** that don’t result in new or nonconforming lots*
- **Minor subdivision amendments** that don’t alter an approved plat*

* Note: Before a subdivision plat is approved, the AMP is required to hold a warned public hearing (§ 4463), suggesting that most subdivision review can’t be done administratively under current statute.

Next Steps

Municipalities Can Start By:

- Reviewing good examples that highlight current administrative review criteria, processes
- Expanding admin review in association AMP use of consent agendas

Possible Updates to State Statute (borrowing from other states)

- Allow administrative subdivision review (e.g., minor subdivisions)
- Clarify role, authority of “Planning Director” with regard to expanded administrative review
- Allow use of hearing officer (e.g., professional staff) to conduct required hearings, draft decisions on behalf of local review boards