

CHAPTER 37. ZONING ADMINISTRATIVE OFFICER

Roles and Responsibilities

The municipal administrative officer, more commonly known as the “zoning administrator,” is more than just the ordinance enforcement agent. He or she is the face of a town’s zoning program. The administrative officer assists applicants through the sometimes confusing review process and is the first public official contacted when development is proposed or an individual has a complaint. As a result, he or she plays an important role as the town’s public relations person, as well as at times the “complaint department.” Administrative officers are statutorily obligated to literally interpret their towns zoning bylaws. This “literal interpretation” however often requires the administrative officer to have an appreciation of context and precedent and administrative officers must exercise good judgment in their interpretation of zoning bylaws. Where issues arise in applying the bylaws, he or she is in an ideal position to educate other zoning officials and the selectboard about possible amendments and possible consequences of land use policy decisions.

- The administrative officer is appointed for a three-year term by the selectboard upon nomination by the planning commission. He or she is subject to the town’s personnel policies and may be removed from office for cause at any time by the selectboard after consultation with the planning commission. 24 V.S.A. § 4448(a).
- The planning commission may nominate and the legislative body may appoint an “acting administrative officer” who will perform the same duties and responsibilities as the administrative officer during the administrative officer’s absence. 24 V.S.A. § 4448(b).
- The compensation of the administrative officer may be fixed annually by the voters or, in their absence, by the selectboard. 24 V.S.A. §§ 932, 933.
- The administrative officer must act on a complete application within 30 days, either by approving or denying an application or referring it to the appropriate municipal panel. Failure to act will result in an automatic “deemed” approval of the permit on the 31st day after receipt of a complete application. 24 V.S.A. § 4448(d).
- The administrative officer must administer the municipal bylaws literally. He or she does not have the power to permit any land development that is not in conformance with such bylaws. 24 V.S.A. § 4448(a).
- Enforcement of the land use ordinance is solely the responsibility of the administrative officer. 24 V.S.A. § 4452
- All permits issued by the administrative officer must contain a statement of an individual’s right to appeal the action to the appropriate municipal panel. 24 V.S.A. § 4449(b).
- When the selectboard provides public notice of the first public hearing on a bylaw or amendment, the administrative officer, for a period of 150 days following that notice, must review any new application under the proposed bylaw or amendment and applicable existing bylaws. If the proposed bylaw or amendment is not adopted within the 150-day period or is rejected, the application will be reviewed under the existing bylaws. If the application is denied under a proposed bylaw or amendment that has not been adopted, the application must be reviewed again for free under the existing bylaw if requested by the applicant. 24 V.S.A. § 4449(d).

The Zoning Process

Authority. The administrative officer is charged with administering and enforcing zoning bylaws that are developed and adopted in accordance with Chapter 117 of Title 24 (24 V.S.A. §§ 4301 et seq.) Every administrative officer should be familiar with these statutory requirements and have a thorough working

CHAPTER 37. ZONING ADMINISTRATIVE OFFICER

knowledge of the local land use regulations and to a certain degree, state statutes and regulations. They should also have an understanding of the communities' geography, settlement patterns, appropriate municipal panels and the towns' municipal plan.

As a practical matter, the administrative officer also often serves as the "public information officer" for general land use regulations. The administrative officer should provide property owners and members of the public with the necessary forms to obtain any municipal permit or authorization required under local bylaws and ordinances regulating land development. They should inform any person applying for municipal permits or authorizations that he or she should also contact the regional permit specialist employed by the state Agency of Natural Resources in order to assure timely action on any related state permits. The administrative officer is further encouraged to coordinate a unified effort on behalf of the town in administering its development review programs. 24 V.S.A. § 4448(c).

Obtaining a Permit. A zoning permit must be obtained from and approved by the administrative officer prior to any land development in a municipality with zoning bylaws, unless the particular development activity is exempted under state statute or the local zoning bylaws. 24 V.S.A. § 4449(a). When an application for a municipal land use permit seeks approval of a structure, the administrative officer must provide the applicant with a copy of the applicable residential or commercial building energy standards as provided under 30 V.S.A. §§51 and §53. However, the administrative officer need not provide a copy of the standards if the structure is a sign or a fence or the application certifies that the structure will not be heated or cooled. A certificate of occupancy must also be issued prior to use or occupancy of any land or structure if the local bylaws so require. 24 V.S.A. §4449(a)(2).

Each zoning permit issued must contain a statement of the period of time within which an appeal may be taken (15 days from date of the decision, action, or non-action). 24 V.S.A. § 4465(a). Within three days of issuance of the permit, the administrative officer must:

1. deliver a copy of the permit to the listers; and
2. post a copy of the permit in at least one public place in the town until the expiration of 15 days from date of issuance of the permit. 24 V.S.A. § 4449(b).

Further, all municipal land use permits – as that term is defined in 24 V.S.A. § 4303(11) (or a memorandum of such permit), including all notices of violations – must be delivered by the appropriate municipal official to the town clerk for recording in the land records. The permit or a memorandum of permit must be recorded within 30 days of the issuance of the permit or notice of violation. 24 V.S.A. § 4449(c).

Appeals. An interested person – as that term is defined in 24 V.S.A. § 4465(b) – can appeal the administrative officer's decision by filing a notice of appeal with the secretary of the zoning board of adjustment or development review board or with the clerk of the municipality if no secretary exists. The notice of appeal must be filed within 15 days of the decision, action, or non-action of the administrative officer. 24 V.S.A. § 4465(a). Only interested persons who have participated in a municipal regulatory proceeding may appeal an appropriate municipal panel's (AMP) decision to the Environmental Court. The appeal notice must be filed by certified mail with fees to the Environmental Court and by mailing a copy to the town clerk or the administrative officer. The town clerk or administrative officer, if so designated, must supply a list of interested persons to the appellant within five working days. 24 V.S.A. § 4471 (c).

Enforcement. It is solely the administrative officer's responsibility to bring enforcement action against any property owner who violates any provisions in the land use regulations. Though the administrative officer must enforce against a known violation, the remedy sought is discretionary. No enforcement action may be taken until the administrative officer has provided a written warning to anyone suspected of

CHAPTER 37. ZONING ADMINISTRATIVE OFFICER

an alleged violation of a bylaw. The notice must be sent by certified mail and must advise the alleged offender:

- of the nature of the violation (referencing the specific provisions of the bylaws is helpful);
- that he or she has seven days in which to “cure” the violation (be specific about what steps need to be taken to abate the violation);
- that he or she is not entitled to any additional warning notice for a violation occurring after the seven days; and
- that he or she has a right to appeal the notice of violation to the zoning board of adjustment (or development review board). 24 V.S.A. § 4451 (a).

As enforcement officer of the municipal zoning laws, the administrative officer is empowered to initiate appropriate legal action in the name of the town against those who violate its bylaws. Such authority includes submitting an application for a mandatory injunction to the superior court for the county in which the violation is occurring or will occur, or initiating an action in Environmental Court or the judicial bureau as appropriate. 24 V.S.A. § 4452. It will be necessary for the administrative officer to consult with the selectboard and the town attorney prior to initiating any legal action.

For more information about the role and responsibilities of the Zoning Administrative Officer, please consult the *Zoning Administrator's Handbook* (2005) by the Vermont Land Use Education and Training Collaborative available from the online Vermont Planning Information Center located at www.vpic.info.