TOWN OF UNDERHILL, VERMONT

Zoning Permits and Certificates of Occupancy/Compliance

Unified Land Use & Development Regulations, §§ 10.3 – 10.4

Section 10.3 Zoning Permits

A. **Applicability**. No land development subject to these regulations shall commence in the Town of Underhill until a zoning permit has been issued by the Zoning Administrator, in accordance with the Act [§4449].

B. **Application Requirements**. The application for a zoning permit must be submitted to the Zoning Administrator on forms provided by the town, along with any application fees as established by the Underhill Selectboard. In addition, the following will be required as applicable:

1. Applications for permitted uses shall include a statement describing the existing and intended use of the land and structures and/or any proposed structural changes, and be accompanied by a copy of a sketch plan, no smaller than 8.5” x 11", drawn to scale, that accurately depicts the following:

    a. the dimensions of the lot, including existing and proposed property boundaries;
    b. the location, footprint, and height of existing and proposed structures and additions;
    c. the location and dimensions of existing and proposed accesses (curb cuts), driveways and parking areas;
    d. the location of existing and proposed easements, rights-of-way and utilities;
    e. setbacks from property boundaries, road rights-of-way, surface waters, and wetlands;
    f. the location of existing and proposed water and wastewater systems; and
    g. such other information as may be needed to determine compliance with these regulations as specified on application checklists provided by the Zoning Administrator.

2. For development requiring one or more approvals from the Development Review Board and/or Selectboard prior to the issuance of a zoning permit, application information and fees shall be submitted concurrently with the application for a zoning permit. The Zoning Administrator shall refer the application to the appropriate board or municipal official following submission.

3. Additional copies of applications for development within Special Flood Hazard Areas under Article VI, as provided by the applicant, must be forwarded by the Zoning Administrator to the State Floodplain Coordinator within 10 business days of receipt of the application. All other applications that require referral to a state agency shall be done by the applicant with evidence of that submission provided to the Zoning Administrator prior to the issuance of any zoning permit.

4. The Zoning Administrator or Development Review Board may reject an application that misrepresents any material fact, in accordance with the Act [§4470a].

C. **Issuance of Zoning Permits**. A zoning permit shall be issued by the Zoning Administrator only in accord with the following provisions:

1. No zoning permit shall be issued by the Zoning Administrator for any use or structure that requires approval of the Development Review Board (DRB) until DRB approval has been obtained. DRB decisions, including approvals, may be appealed under Section 10.5; however, administrative zoning permits issued by the Zoning Administrator for DRB-approved development cannot be separately appealed under Section 10.5.

2. No zoning permit shall be issued by the Zoning Administrator for the development of a lot for which subdivision approval is required until subdivision approval has been granted by the DRB and, where also required, a certificate of compliance has been issued in accordance with Section 10.4.

3. For uses requiring state agency referral, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state, whichever is sooner.

4. If public notice has been issued by the Underhill Selectboard for their first public hearing on a proposed amendment to these regulations, the Zoning Administrator shall issue a zoning permit for development that is subject to the proposed amendment only in accordance with the requirements of the Act [§4449(d)].

5. Within 30 days of receipt of a complete application, including all application materials, fees and required approvals, the Zoning Administrator shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board. If the Zoning Administrator fails to act within the 30-day period, on appeal to the DRB a permit shall be deemed issued on the 31st day.

6. All zoning permits shall include a statement of time within which appeals may be taken under Section 10.5; and shall require the posting of a notice of permit, on a form prescribed by the town, within view of the nearest public right-of-way most nearly adjacent to the subject property until the time for appeal has expired.

7. The Zoning Administrator shall deliver a copy of the permit to the Listers and post a copy of the permit at the town office within three days of the date that the permit is issued. The permit shall be posted for a period of 15 days from the date of issuance.

D. **Effective Dates and Permit Renewals**

1. **Zoning Permits**. No zoning permit shall take effect until the time for appeal under Section 10.5 has passed or, in the event that a notice of appeal is properly filed, until the appeal has been decided. Permits shall remain in effect for one year from the date of issuance, unless the permit specifies otherwise.

    a. Development authorized by a zoning permit shall be substantially commenced within this period or the zoning permit shall become null and void, unless a permit extension is obtained by the permittee.

    b. A one-year administrative extension may be granted by the Zoning Administrator if the extension is requested prior to the permit expiration date and the Zoning Administrator determines that there was reasonable cause for delay in starting development. "Reasonable cause for delay" shall be based on a determination that:

        i. The delay is the result of delays in a state or federal permitting process; or
        ii. The applicant has made a good faith effort to exercise his rights under the permit and, though the use or actual construction of structures authorized permit has not begun, the permittee is conducting work at the site in furtherance of the permitted project.

    c. Only recording fees shall be assessed for an administrative extension.

    d. A one-year permit extension granted under this subsection is not renewable. Should the permittee fail to substantially commence the project within the one year extension period, he or she will be required to submit a new application for development.

2. **DRB Approvals**. Development Review Board approvals shall remain in effect as follows:

    a. **Subdivision Approval**. Final subdivision approval by the DRB shall remain in effect and run with the land, and legally recorded subdivision plats, as approved by the DRB, shall not expire; however mandatory lot merger requirements under Section 3.8 may apply to undeveloped lots that become nonconforming under subsequent zoning amendments. For purposes of these regulations, any lot approved by the DRB as part of a planned unit development under Article IX is considered a conforming lot.

    b. **Site Plan and Conditional Use Approval**. Site plan and conditional use approval by the DRB shall expire with the expiration of the zoning permit, and may be extended only in accordance with Subsection D.1 above; or as provided for abandoned structures under Section 3.1. Once approved uses or structures are established, site plan and conditional use approvals shall remain in effect and run with the land.

    c. **Variance Approval**. Variance approval expires with the expiration of a zoning permit. Variance approval shall remain in effect and run with the land for structures or structural alterations that are constructed in strict compliance with the conditions of variance approval.

Section 10.4 Certificates of Occupancy & Compliance

A. **Certificate of Occupancy**. A certificate of occupancy issued by the Zoning Administrator is required prior to the use or occupancy of land or a permitted structure or part thereof, for which a zoning permit has been issued under these regulations. The purpose of this certificate is to ensure that the use or structure, as established, conforms to these regulations and the conditions of approval.

1. The application for a certificate of occupancy shall be provided with the zoning permit issued by the Zoning Administrator. The applicant shall submit the application, including as-built drawings where applicable, to the Zoning Administrator upon substantial completion of required improvements, but prior to the use or occupancy of the land or structure.

    a. **Substantially Complete**. A development shall be deemed substantially complete if it meets all applicable permit requirements and conditions, and is habitable or otherwise able to be occupied or used for its intended purpose.

2. A certificate of occupancy shall not be issued until:

a. The applicant documents that all necessary permits and approvals required by these regulations, including applicable state and federal permits, have been obtained.

b. The applicant provides certification from a professional engineer or site technician (designer) licensed by the state that wastewater and water supply systems have been installed and tested as approved by the state.

c. The applicant provides certification from a licensed engineer that all permitted road and driveway improvements have been completed in conformance with approved plans.

d. The Zoning Administrator determines that the development has been completed in conformance with permits and approvals, from as-built drawings submitted by the applicant and/or site inspection.

3. The Zoning Administrator shall inspect the premises to ensure that all work has been completed in conformance with the zoning permit and associated approvals prior to issuing a certificate.

4. A certificate of occupancy shall be issued or denied by the Zoning Administrator within 14 business days of receipt of the complete application. If the Zoning Administrator fails to either grant or deny the certificate of occupancy within 14 days of the submission of an application, the certificate, on appeal, shall be deemed issued on the 15th day.

5. Certificates of occupancy shall be posted, delivered and recorded in the Underhill land records and in the zoning file for the property in the same manner as zoning permits under Section 10.3.

6. The Zoning Administrator's decision to issue or deny a certificate of occupancy may be appealed to the Development Review Board under Section 10.5.

B. **Certificate of Compliance**. After the effective date of these regulations, the Development Review Board may require, as a condition of final subdivision approval under Section 7.6, that a certificate of compliance be obtained to ensure all required improvements, including road and other infrastructure improvements, have been installed in accordance with the conditions of subdivision approval, prior to any further land development. If an approved subdivision is developed in phases, a certificate of compliance may be issued for each phase of development.

1. The application for a certificate of compliance shall be submitted to the Zoning Administrator with as-built plans prepared by a licensed engineer, drawn to scale, that show the locations of all survey monuments and improvements as constructed or installed. The Zoning Administrator may rely on application information submitted for the subdivision as approved to determine whether as-built drawings conform to the subdivision plat and other conditions of approval.

2. The Zoning Administrator may conduct one or more site inspections to ensure that all improvements have been installed as represented, in conformance with these regulations and the conditions of approval.

3. A certificate of compliance shall be issued or denied in writing by the Zoning Administrator within 14 business days of receipt of the complete application. If the Zoning Administrator fails to either grant or deny the certificate of occupancy within 14 days of the submission of an application, the certificate, on appeal, shall be deemed issued on the 15th day.

    a. If the Zoning Administrator determines that improvements as constructed or installed do not meet specific conditions of subdivision approval, a certificate of compliance shall be denied, and cannot be issued until a subdivision amendment has been applied for and obtained by the applicant under Section 7.8.