

## Chapter 5

### Administrative Permit Procedures

This chapter establishes application, review, and appeal procedures for administrative permits. All development that is not specifically exempted by WDB 4.2 must obtain an administrative permit following these procedures.

#### 5.1 Filing an Application for an Administrative Permit

**5.1.1 Who can apply for a permit?** All applications for permits must be signed by the owner of the land on which the development is proposed or by a trustee or guardian of the owner. The owner may appoint a representative to prepare and file the application, but his or her signature is required on the application form. If the proposed development will involve more than one property, the owners of all lots or parcels involved must sign the application for a permit.

**5.1.2 What if I have questions before applying for a permit?** The town staff can explain the requirements of this bylaw. Staff can also discuss proposed developments and make suggestions prior to the filing of an application. Staff cannot design your project or provide drawings. If you need that type of assistance, retain a qualified professional.

**Please Make an Appointment!** People who drop in to Williston's Planning Department are often disappointed to find that the entire staff has other commitments. Making an appointment guarantees that a staff person can spend time with you.

**5.1.3 Is there an application form?** Applications for administrative permits must be submitted on the forms provided by the Administrator, as authorized by WDB 4.3.6. There is a separate form for applications for administrative permits for signs. These forms may be obtained at Williston Planning, which is located in the Town Hall Annex at 7878 Williston Road or, with some exceptions, on-line at the town's website. Please be sure you have the most current version. Applications made on outdated forms will not be reviewed.

**5.1.4 What type of plans must accompany the application form?** The plans required will vary with the complexity of the proposed development.

5.1.4.1 Where a Discretionary Permit Was Required. The approved final plans must be submitted with the application for an Administrative Permit.

5.1.4.2 Where No Discretionary Permit was Required. The plans submitted must be accepted by the Administrator as sufficient to demonstrate compliance with this bylaw. Meeting this standard will ordinarily require submission of scaled, dimensioned drawings of the proposed development. For very simple projects, like the addition of a deck by a homeowner, a simple sketch and/or photographs illustrating existing conditions may be accepted.

**5.1.5 How much does it cost to apply?** Application fees are set by resolution of the Selectboard, which may revise the fees at any time. A copy of the current fee schedule is available from the Administrator or on-line at the town's website.

**5.1.6 What happens if my application is incomplete?** Incomplete applications will be returned with a list of what is needed to make the application complete.

## 5.2. Administrator's Review and Decision

**5.2.1 How long will it take to review my application?** 24 V.S.A. § 4448(d) gives the Administrator 30 days from the date a complete application is filed to review that application and make a decision.

**Will it really take a month for my application for a permit to be reviewed?** Williston Planning makes every effort to process administrative permits promptly. Some permits may be issued on the day the application is filed, but normally there is a short review period. The time required will vary with the workload and the complexity of the permit, however, and applicants are reminded that state law allows 30 days.

### 5.2.2 How will my application be evaluated?

5.2.2.1 Compliance. The Administrator will review the proposed development for compliance with all applicable requirements of this bylaw.

5.2.2.2 Consistency. The Administrator will review the proposed development for compliance with all applicable conditions of approval.

**Conditions of Approval?** Many proposed developments will be subject to conditions of approval imposed on previous permit approvals. For example, a subdivision may have been approved with the condition that no more than ½ acre of vegetation be cleared from each lot. The Administrator must review the development of each lot to ensure compliance with this condition.

5.2.2.3 Site Visits. The Administrator often needs to visit the site of a proposed development to assess compliance and consistency, as required by WDB 5.2.2.1 and 5.2.2.2. The filing of an application constitutes permission for a site visit at any time during regular business hours or as otherwise arranged with the applicant. Applicants must provide notice of hazardous conditions on a site and arrange a safe site visit at the Administrator's request.

5.2.2.4 Referrals. The Administrator may refer any application for an administrative permit to Conservation Commission or HAAC, for review and advice. Referrals must take place within the 30 days allowed for permit review by WDB 5.2.1.

5.2.2.5 Decision. If the proposed development complies with all applicable requirements of this bylaw and all applicable conditions imposed on previous permit approvals, the application will be approved and a permit issued. If the proposed development fails to comply, the application will be rejected and the applicant will receive a written explanation listing the requirements and/or conditions with which the proposed development did not comply.

**5.2.3 Can conditions be imposed on my permit?** Yes. The Administrator may impose conditions on the approval of administrative permits. All such conditions must be provided in writing with the approved permit and designed to ensure compliance with specifically cited requirements of this bylaw or of previous permit approvals.

**5.2.4 How will I be notified of the administrator's decision?** Some applications for permits may be reviewed while the applicant waits, but usually there is a short review period. In all other cases, the Administrator's decision will be mailed to the applicant via first class mail.

**5.2.5 Must I keep a copy of the approved permit on the site while construction is underway?** Yes. A legible copy of the approved administrative permit and the approved final plans must be maintained on the site and readily accessible to Town staff or contractors who are conducting inspections at all times until a certificate of compliance is issued or, where no certificate of compliance is required, until work is complete.

**5.3 When Permits Take Effect.** As explained in WDB 5.4, any decision of the Administrator may be appealed to the DRB. This means that an appeal period must run before permit approval takes effect.

**5.3.1 How long is the appeal period?** The appeal period begins on the day after the application for a permit is approved or rejected and runs for 15 days.

**5.3.2 What must I do during the appeal period?** Upon submitting your application, you should post the notice provided by the town in a location on your property that is prominently visible from the nearest public road. You must leave that notice in place for 15 days after receiving your approved permit [24 V.S.A. 4449(b)].

**5.3.3 When can I begin work?** Work on the development should not begin during the appeal period. **ANY WORK DONE DURING AN APPEAL PERIOD IS A VIOLATION OF THIS BYLAW SUBJECT TO ENFORCEMENT AS PROVIDED IN CHAPTER 7 AND IS UNDERTAKEN ENTIRELY AT THE OWNER'S RISK.** You could be required to remove the work done and restore the site to its original condition.

**5.3.4 What happens if an appeal of my permit approval is filed?** If an appeal is filed, the permit is suspended until the DRB has heard and made a final decision on that appeal, as provided in WDB 5.4. and the time for taking an appeal of the DRB's decision to the Environmental Court has passed.

**5.4 Appeals.** 24 V.S.A §4465, et seq. provide that any decision of the Administrator may be appealed to the DRB.

**5.4.1 Who may file an appeal?** Any interested party. This term is defined at WDB 6.5.5.

**5.4.2 How long do interested parties have to file an appeal?** 15 days, starting on the day after the permit is approved. A notice of appeal must be filed with the Administrator within 15 days of the day after the decision that is being appealed was made.

**5.4.3 What contents are required for a notice of appeal?** A notice of appeal must be submitted on the form provided by the town and accompanied by all materials required by the *Appeal Checklist*.

**5.4.4 When will the appeal be heard?** Upon receiving a notice of appeal, the Administrator will set a date and time for the hearing of the appeal at the next regular meeting of the DRB for which the notice requirements for DRB hearings can be met.

**5.4.5 How will the appeal be heard?** Appeals hearings will follow the master hearing procedure established at WDB 6.5.6, except that no hearing will be held in the case of successive appeals where the DRB, acting under the authority of 24 V.S.A. § 4470(a), determines that the issues raised and/or facts presented have been decided in an earlier appeal. In such cases, the DRB may reject the appeal and give notice of its action as provided by WDB 6.6.6.

**5.4.6 What action can the DRB take on an appeal?** Following its hearing of an appeal, the DRB may uphold, modify, or overturn the decision of the Administrator. In every case the DRB shall adopt written findings and conclusions supporting its action.

**5.4.7 How will notice of the DRB's decision be given?** Notice of the DRB's decision on the appeal will be provided as required by WDB 6.6.6.

**5.4.8 Can I appeal the DRB's decision on an appeal?** Yes. Appeals of DRB decisions go to the Environmental Court, as provided 24 V.S.A. § 4471.

## **5.5. Expiration of Administrative Permits**

**5.5.1 Do administrative permits expire?** Yes. An administrative permit is valid for two (2) years from the date of its approval. Note that any time during which a permit is under appeal, either before the DRB or in court, the appeal time will not be counted toward the two (2) year deadline established here.

**5.5.2 Can an administrative permit be renewed?** Once. An administrative permit will be automatically renewed for one (1) year from the date of its expiration upon written request to the Administrator. Such requests must be received before the permit expires. No further renewals are permitted.

## **5.6 Changes in Development Plans after a Permit is Approved**

**5.6.1 What happens if I change a project after an administrative permit is approved?** Failure to build in accord with the approved final plans is a violation of this bylaw, subject to enforcement as provided by WDB 7.4-7.6. A fine may be imposed and you may be required to remove all work that is not in accord with the approved final plans.

**5.6.2 Aren't minor changes inevitable in any development?** The town recognizes that small changes may be necessary as construction proceeds. The Administrator may permit minor revisions or changes to approved final plans as provided here. For substantial changes see WDB 5.6.3.

**5.6.2.1 Revised Plans.** The applicant must submit revised plans to the Administrator for review. Failure to do this before the proposed change is made is a violation of this bylaw, subject to enforcement as provided by WDB 7.4-7.6.

**5.6.2.2 Dimensional Changes.** The Administrator may permit small dimensional changes provided that they do not result in a violation of this bylaw or conditions imposed on previous permit approvals, or in a substantial change, as defined by WDB 5.6.3. For example, the Administrator could permit a builder to shift a door, and the sidewalk leading from the parking area to that door, by a few feet in order to accommodate a change in a proposed building's floor plan.

**5.6.2.3 Materials Changes.** The Administrator may permit substitutions for proposed building materials provided that the proposed substitute has the same appearance and performance as the approved material. For example, the Administrator could allow a builder to change the brand of outdoor light fixtures proposed for a parking area, if (and only if) the proposed substitute brand was the same height, had the same cutoff, and produced the same level of illumination.

5.6.2.4 Public Works Changes. Minor changes in the location and specifications of required improvements may be permitted. They must be referred to and approved by the DPW before being permitted by the Administrator.

5.6.2.5 Referral. The Administrator may refer proposals for minor changes or revisions to approved developments to the Conservation Commission or HAAC for review and comment before making a decision. Conservation Commission or HAAC reviews must be completed within the time allowed for review of the application by WDB 5.2.1.

**5.6.3 *What if the change I propose is substantial?*** If you are going to make a substantial change in a development for which plans have been approved you must apply for a new permit, as required by this bylaw. A substantial change changes:

5.6.3.1 ... the approved use (more specifically, a change in use is from one three-digit NAICS classification to another);

5.6.3.2 ... the location or extent of a proposed open space;

5.6.3.3 ... the location or extent of the area proposed to be cleared, graded, or otherwise disturbed by more than 1,000 square feet (a smaller change in the area that will be cleared, graded, or otherwise disturbed is a minor dimensional change, as provided for by WDB 5.6.2.2);

5.6.3.4 ... the location, extent, or design of any required improvements, public or private, including, but not limited to, proposed runoff and erosion control measures, utilities, parking areas, driveways, roads, trails, sidewalks, street trees, and landscaped buffers, except where a minor change is approved by the DPW, as provided by WDB 5.6.2.4;

5.6.3.5 ... the approved number of lots, buildings, structures, units, or bedrooms;

5.6.3.6 ... the approved location, number, type, and size of signs, excepting signs that would be exempt from the requirement for a permit; and/or

5.6.3.7 ... any other architectural or landscape feature that is not “minor work,” as defined by WDB 4.3.5.

Making a substantial change from approved final plans without obtaining a new permit is a violation of this bylaw, subject to enforcement as provided in WDB 7.4-7.6.