PUBLIC HEARING

FAIRFIELD DEVELOPMENT REGULATIONS

Scheduled for Monday, December 2nd at 7 p.m.
at the Fairfield Town Office

Notice is hereby given to the residents of the Town of Fairfield, Vermont that the Fairfield Planning Commission will hold a hearing on Monday, December 2nd at 7 p.m. at the Fairfield Town Office to consider for adoption the following proposed Fairfield Development Regulations pursuant to Chapter 117 of Title 24, §4384 and §4441 V.S.A. The Fairfield Development Regulations will modify and replace the current zoning bylaws, subdivision regulations and flood hazard regulations. The purpose of these regulations is to provide for orderly community growth, to further the purposes established in §4302 of Title 24 V.S.A. Chapter 117, and to implement the Fairfield Town Plan.

The draft proposed regulations includes ten sections: Authority and Purpose, Administration and Enforcement, Development Review Procedures and Standards, Zoning Districts and District Regulations, General Regulations, Specific Use Regulations, Subdivision Review and Regulations, Planning and Design Regulations, Flood Hazard and River Corridor Regulations, and Definitions. The Fairfield Planning Commission has revised and updated the regulations to be more user-friendly and to conform with current state and federal regulations. Proposed changes include revisions to the two village zoning districts boundaries and dimensional standards to ensure that future development reflects the historic, traditional pattern of development in these areas. A report outlining proposed changes to the regulations, and the full text of the proposed regulations, are available at the Fairfield Town Clerk's Office.

Town of Fairfield, Vermont Planning Commission Report in accordance with VSA Title 24, Chapter 117, Subchapter 9, §4441(c).

Amendments to Fairfield, Vermont Subdivision & Zoning Bylaw
Adopted by the Selectboard on May 14, 2012

PURPOSE:

The purpose of the bylaw is to implement the Fairfield, Vermont Municipal Plan and to carry out the overall goals and vision of that plan. This bylaw also furthers the purposes of the Vermont Planning and Development Act, Title 24 V.S.A Chapter 117 (the Act) to promote the health, safety and general welfare of the inhabitants of Fairfield, Vermont.

EXPLANATION:

The following is a summary of proposed amendments to the Fairfield, Vermont Subdivision & Zoning Bylaws (retitled: Town of Fairfield, Vermont – Land Use and Development Regulations) adopted by the Selectboard on May 14, 2012.

The proposed amendments conform with or further the goals contained in the Fairfield, Vermont Municipal Plan (adopted May 26, 2015). The regulations have been substantially reorganized to provide for easier use by staff, board members, and the public. Language throughout the regulations has been revised to provide additional clarity and to provide mandatory, enforceable language. The zoning map has been revised to combine similar zoning districts, properly size zoning district boundaries to meet the purpose of the district and to have district boundaries follow property lines. Permitted Uses, Conditional Uses, and uses subject to Site Plan Review have been updated in each zoning district. Planned Unit Development regulations have been revised to clarify review standards. The permit allocation system has been removed. Several changes in the document have been made to ensure compliance with state statute.

Given the substantial reorganization of the regulations, please see Appendix A for a "key" cross-referencing where regulations from the existing bylaw have been moved into the proposed development regulations.

The proposed amendments are compatible with the proposed future uses and densities outlined in the Fairfield, Vermont Municipal Plan. Most **major** areas of change are listed below:

Article 1 – Authority and Purpose

(1) Clarified **statutory authorization** (Section 1.1).

(2) Clarified **applicability** of the regulations (Section 1.3).

(3) Clarified **computation of time** based on statute (Section 1.6).

(4) Added a **table summarizing all types of municipal permits and approvals** (Table 1.1).

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Article 2 – Administration and Enforcement

(1) Added an **administration** section outlining Zoning Administrator, Planning Commission, and Board of Adjustment roles (Section 2.1).

(2) Clarified the composition and the duties of the **Board of Adjustment** (Section 2.1).

(3) Added a section referencing the **fee schedule** (Section 2.2).

(4) Added a section clarifying the process for the Planning Commission and/or Board of Adjustment hiring a consultant to complete **independent technical review** (Section 2.3).

(5) Revised sections related to **public notice of meetings and hearings, the requirements of holding a meeting or hearing, and the requirements of a written decision** on development applications (Sections 2.4, 2.5, and 2.6).

(6) Clarified **recording requirements** related to development review (Section 2.7).

(7) Edited the order of **combined review** of applications (Section 2.8).

(8) Clarified the **appeals** process (Section 2.9).

(9) Clarified the criteria the need to be met in order to receive a **Certificate of Occupancy** (Section 2.10).

(10) Added new language concerning **zoning enforcement** and issuance of municipal tickets for zoning violations (Section 2.11).

Article 3 – Development Review Procedures and Standards

(1) Revised the duties required of the **Zoning Administrator** after a permit has been issued to meet the requirements of state statue (Section 3.1).

(2) Added a new diagram to explain the **development review process** (Figure 3.1).

(3) Added a **state and local exemptions** section to clarify what types of land development in Fairfield do not require a permit from the Zoning Administrator (Section 3.1).

(4) Added **site plan review** as a new type of development review focused on how an individual site is designed (Section 3.2).

(5) Added language to meet the state requirements that a **letter of intent** from the Agency of Transportation be submitted with all applications for site plan approval when the subject property is accessed from a state highway (Table 3.1).

(6) Substantially revised the **conditional use review** to clarify applicability, application requirements, and standards (Section 3.3).

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(7) Added a "test" that the Planning Commission and Board of Adjustment can use to assess if land development is creating an **"undue adverse effect"** during a development review hearing (Figure 3.2).

(8) Revised **variance** review to comply with the requirements of statute (Section 3.4).

(9) Removed the **permit allocation system** (Section 3.5).

(10) Substantially revised **Planned Unit Developments (PUDs)** to provide more structure to the Board of Adjustment and the applicant regarding lot sizes and conservation of land in rural areas for agriculture, forestry, and recreational uses (Section 7.10).

Article 4 – Zoning Districts and District Regulations

(1) Reorganized the sections explaining the **establishment and interpretation of zoning districts** (Section 4.1 and 4.2).

(2) Revised the **purpose statements for all zoning district** to reflect the purpose statements in the Fairfield, Vermont Town Plan (Section 4.3).

(3) Clarified what types of **"uses" and "structures"** exist within the regulations and how they are regulated (Section 4.4).

(4) Created a standard where applicants can apply to develop land uses that are not defined (**undefined uses**) per conditional use approval by the DRB. All undefined uses are now prohibited (Section 4.4).

(5) Substantially revised the content and format of the **dimensional standards and use standards** for all zoning districts (Table 4.1).

(6) The requirement that land development can only occur on lots with **frontage on existing State Highways, Class 1, Class 2, and Class 3 Highways** has been removed.

(7) Added standards for the **Village District** based on a village character assessment to ensure that future development in this area fits within the existing context of the Village District (Section 4.5).

(8) Clarified other **zoning district-specific standards** for all zoning districts and added a maximum road and driveway length standard in the Upland District to restrict future forest fragmentation (Section 4.6, 4.7, and 4.8).

Article 5 – General Requirements

(1) Added an **applicability** section to explain how the standards of this Article shall apply (Sections 5.1).

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(2) Added two sections to explain the differences between **uses and structures** (Section 5.2 and 5.3).

(3) Clarified the **abandonment** of uses and structures (Section 5.4).

(4) Revised **access standards** to comply with statute. Added **driveway standards** to align with those standards already being used by the Fairfield Fire Department (Section 5.5).

(5) Clarified how **non-conforming uses and structures** are regulated and added a figure to better explain the regulation (Section 5.6 and Figure 5.1)

(6) Added a standard regulating **outdoor lighting** (Section 5.7).

(7) Revised **parking standards** (Section 5.8)

(8) Streamlined existing **performance standards** (Section 5.9).

(9) Reorganized the **signs** section (Section 5.10).

(10) Revised the **wastewater and potable water supply** standards to reflect municipal jurisdiction (Section 5.12).

Article 6 – Specific Use and Structure Standards

(1) Added an **applicability** section (Section 6.1).

(2) Revised the **accessory dwelling** unit standards to allow for larger accessory dwellings (Section 6.2).

(3) Simplified standards for **agricultural dwellings** (Section 6.3).

(4) Added standards for **elderly housing and multi-household dwellings** to ensure occupant access to open space, storage, laundry, and sidewalks (Section 6.5).

(5) Clarified standards that apply to **excavation and landfilling**. Also revised section on **extraction and quarrying** to clarify application requirements, standards, and surety (Section 6.6).

(6) Added standards regulating **gas stations** (Section 6.7).

(7) Revised standards for **home occupations** and added standards for **home industry** to allow for larger home-based businesses (Section 6.8).

(8) Added standards for **industrial and mixed uses** (Section 6.9 and 6.10).

(9) Clarified that roads in **Mobile Home Parks** shall be constructed to private roads standards (Section 6.11).

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(10) Added a section to clarify regulation of **public facilities** and comply with statutory requirements (Section 6.12).

(11) Added specific regulations for **Salvage Yards** (Section 6.13).

(12) Clarified standards that shall be met to allow for conversion of **seasonal dwellings** to year-round dwellings (Section 6.14).

(13) Added new regulations for **Telecommunications Facilities** as required by statute (Section 6.15).

Article 7 – Subdivision Review

(1) Clarified the applicability of **subdivision regulation** (Section 7.1).

(2) Added a figure to better explain the **subdivision process** (Figure 7.1).

(3) Reorganized the **subdivision application requirements** (Section 7.2 and Table 7.1).

(4) Added a provision that could provide relief to owners of larger lots when they are subdividing property. The provision requires a **property boundary survey** for all new subdivided lots, yet property boundary surveys are required for the entire parent parcel (original lot from which new lots are subdivided) only when the parent parcel is 10 acres or less in size, and/or greater than 50% of the acreage of the parent parcel is subdivided into lots (Table 7.1).

(5) Clarified **subdivision review procedures** (Section 7.4).

(6) **Plat recording requirements** were clarified (Section 7.5).

(7) **Clarified legal requirements, expiration, and amendment process for subdivisions (Section 7.6, 7.7 and 7.8).**

(8) Consolidated **subdivision standards** into one section, added an applicability section and a standard for density (Section 7.9).

Article 8 – Development Review Standards

(1) Clarified **applicability** of Article 8 (Section 8.1).

(2) Revised standards for **landscaping and screening** (Section 8.2).

(3) Clarified standards applicable to **road and sidewalks** (Section 8.3).

(4) Clarified what constitutes a **conservation resource** and how such resources are protected. Added specific standards for the protection of **farmland and agricultural soils** and **steep slopes** (Section 8.4).

(5) Clarified the applicability and the standards for **stormwater management plans and erosion control plans (**Section 8.5).

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(6) Removed requirement to have all **utilities** buried underground (Section 8.6).

Article 9 – Flood Hazard and River Corridor Regulations

(1) Clarified **statutory authorization, purpose, and applicability** of flood hazard and river corridor regulations (Section 9.1, 9.2 and 9.3).

(2) Added **application requirements** for development in the Flood Hazard Area Overlay District (Section 9.4).

(3) Clarified what types of **structures and uses** are allowed in the special flood hazard area and river corridor (Section 9.4).

(4) Revised **standards for development in the special flood hazard area** to meet federal minimum standards and added **standards for development in the river corridor** (Section 9.6).

(5) Clarified **regulation of nonconforming structures, variances, certificate of occupancy**, **and violations** in the Flood Hazard Area Overlay District for development in the special flood hazard area and river corridor (Sections 9.7, 9.8, 9.9, and 9.10).

(6) Separated **definitions** that only pertain to development in the special flood hazard area and river corridor from other definitions used in the bylaw (Section 9.11).

Article 10 – Definitions

(1) Revised the following **definitions** (Section 10.2)**:**
   a. **Affordable Housing**
   b. **Campground**
   c. **Dwelling, Seasonal**
   d. **Dwelling Unit**
   e. **Excavation**
   f. **Land Development (Development)**
   g. **Lot**
   h. **Principal Use**
   i. **Public Facility**
   j. **Restaurant**
   k. **Rooming House (Residential Lodging)**
   l. **Setback**

(2) Added the following **definitions** (Section 10.2):
   a. **Accessory Structure**
   b. **Accessory Use**
   c. **The Act**
   d. **Agricultural Housing**
   e. **Agriculture**
   f. **Bed and Breakfast**
   g. **Child Care Facility**

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h. **Child Care Home**
i. **Conservation Lot**
j. **Conservation Resources**
k. **Driveway**
l. **Dwelling, Accessory**
m. **Dwelling, Multi-household**
n. **Dwelling, Single-household**
o. **Dwelling, Two Household**
p. **Earth Resource Extraction**
q. **Fall Zone**
r. **Frontage**
s. **Gas Station**
t. **Group Home**
u. **Height**
v. **Home Industry**
w. **Junk**
x. **Junk Yard**
y. **Kennel**
z. **Lot Area**
aa. **Maximum Lot Size**
bb. **Minimum Lot Size**
cc. **Mixed Use**
dd. **Open Space**
ee. **Parent Parcel**
ff. **Planned Unit Development**
gg. **Primitive Camp**
hh. **Principal Structure**
ii. **Residential Care Home**
jj. **Salvage Yard**
kk. **Subdivision**
ll. **Telecommunications Facility**
mm. **Town Plan**
nn. **Undue Adverse Effect**

(3) The following definitions were deleted:

a. **Building**
b. **Camp/Cabin**
c. **Communications Facility**
d. **Essential Public Facility**
e. **Lot Frontage**
f. **Meadow**
g. **Planned Residential Development**
h. **Recreation – Indoor**
i. **Right-of-way, public**
j. **Right-of-way, private**
k. **Sign area**

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Zoning Map

(1) The Pond District and the Swamp District have been combined into the Pond & Swamp District.

(2) The Fairfield Village District and the East Fairfield Village Districts have been combined into a unified Village District. The district boundaries in each village have been revised to better reflect areas that have access to public water, are within ¼ mile of the center of the village, and may reasonably be developed.

(3) Revised the district boundary between the Agricultural District and the Upland District along South Road.

(4) Revised the district boundary between the Agricultural District and Pond & Swamp District in the vicinity of Fairfield Pond. The Pond & Swamp District will generally only include properties that have frontage along Fairfield Pond in this area. There are exceptions. Please refer to the zoning map.

(5) Clarified that the Chester A. Arthur Historic Overlay District is in fact an overlay district.

(6) Clarified that Revised the Flood Hazard Area Overlay District to incorporate River Corridor as mapped by the VT Agency of Natural Resources.

PUNCTUATION, WORDING, AND FORMATS HAVE CHANGED TO INCREASE CLARITY AND FUNCTION OF THESE REGULATIONS.

CONFORMANCE AND IMPLEMENTATION:

The proposed Fairfield, Vermont Land Use and Development Regulations conform with and further the goals and policies contained in the Fairfield, Vermont Municipal Plan including all goals and policies pertaining to the availability of safe and affordable housing. This change has no detrimental effect upon, and is entirely compatible with, the proposed future land uses and densities of the Fairfield, Vermont Municipal Plan. The proposed changes do not inhibit nor carry out any specific proposals for any planned community facilities.

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Appendix A - Fairfield Development Regulations - Proposed Table of Contents

Article 1 – Authority and Purpose

Intent and Applicability – This article will provide the legal basis for having Development Regulations

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 1.1 Enactment
- Section 1.2 Purpose
- Section 1.3 Amendments
- Section 1.4 Severability
- Section 1.5 Interpretation

Article 2 – Administration and Enforcement

Intent and Applicability – This article will organize how the Development Regulations will be administered. This includes verifying roles and responsibilities, administrative requirements, and enforcement.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 1.6 Review of Applications During Adoption & Amendment of Bylaws
- Section 1.8 Additional Data & Independent Review
- Section 3.1 Zoning Administration and Enforcement

Article 3 – Development Review Procedures and Standards

Intent and Applicability – This article will explain the different types of development review in Fairfield (zoning permit, site plan, CU, subdivision), explain when the type of development review applies, and will provide the criteria that needs to be met in order for an application to be approved.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 1.9 Permit Conditions
- Section 1.10 Development Review Procedures
- Section 3.4 Miscellaneous Specific Provisions (in part)

Article 4 – Zoning Districts and District Regulations

Intent and Applicability – This article will explain the intent of each zoning district. It will further explain which land uses and which structures are permitted, conditional, prohibited, or exempt in each zoning district. This article may also include any regulations that may be specific to a particular zoning district.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 3.2 Establishment of Zoning Districts & Official Zoning Map

Article 5 – General Regulations

Intent and Applicability – This article will contain regulations that apply to all “land development” in the Town of Fairfield.

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Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 3.3 Pre-Existing Development
- Section 3.4 Miscellaneous Specific Provisions (in part)

Article 6 – Specific Use Regulations

Intent and Applicability – This article will include regulations that only apply to specific types of land uses (ex. gas stations, public facilities, mobile home parks, home occupations).

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 3.4 Miscellaneous Specific Provisions (in part)

Article 7 – Subdivision Review and Regulations

Intent and Applicability – This article will include language specific to the subdivision process. It will also contain regulations that apply only to subdivisions.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 1.7 Boundary Line Adjustments
- Section 2.1 General Provisions
- Section 2.2 Review Procedures
- Section 2.3 Development Standards (in part)

Article 8 – Planning and Design Regulations

Intent and Applicability – This article will contain regulations that apply to all applications that go before the PC or ZBA (site plan, conditional use, subdivision, waiver, variance, appeal). The regulations in this section DO NOT apply to "land development" that only requires a zoning permit.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 1.8 Additional Data & Independent Review
- Section 2.3 Development Standards (in part)
- Section 3.4 Miscellaneous Specific Provisions (in part)

Article 9 – Flood Hazard and River Corridor Regulations

Intent and Applicability – This article will contain regulations that apply only in the 100-year flood plan (Special Flood Hazard Area) and the River Corridor.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Section 3.2 Establishment of Zoning Districts & Official Zoning Map

Article 10 – Definitions

Intent and Applicability – This article will contain definitions of terms used throughout the entire Development Regulations.

Existing Fairfield Subdivision & Zoning Bylaw regulations located here:

- Article 4 - Definitions

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TOWN OF FAIRFIELD, VERMONT

Land Use and Development Regulations

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Adopted by the Voters: March 2, 2004
Amended by the Fairfield Selectboard: June 6, 2006
Adopted by the Fairfield Selectboard: May 14, 2012
Amended by the Fairfield Selectboard: XXXXXXXX

This project was funded by the Vermont Agency of Commerce and Community Development through the Municipal Planning Grant Program.

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Table of Contents

Table of Contents 2
Article 1 – Authority and Purpose 5
SECTION 1.1 Statutory Authorization and Enactment 5
SECTION 1.2 Purpose 5
SECTION 1.3 Applicability 5
SECTION 1.4 Severability 5
SECTION 1.5 Interpretation 5
SECTION 1.6 Computation of Time 6
Article 2 – Administration and Enforcement 8
SECTION 2.1 Administration 8
SECTION 2.2 Fees 9
SECTION 2.3 Independent Technical Review 9
SECTION 2.4 Public Notice for Meetings and Hearings 10
SECTION 2.5 Meeting and Hearing Requirements 10
SECTION 2.6 Decisions 11
SECTION 2.7 Recording Requirements 12
SECTION 2.8 Combined Review 12
SECTION 2.9 Appeals 13
SECTION 2.10 Certificate of Occupancy 14
SECTION 2.11 Violations and Enforcement 14
Article 3 – Development Review Procedures and Standards 17
SECTION 3.1 Permitting Process and Zoning Permits 17
SECTION 3.2 Site Plan Review 22
SECTION 3.3 Conditional Use Review 25
SECTION 3.4 Variance Review 26
SECTION 3.5 Planned Unit Development 27
Article 4 – Zoning Districts and District Regulations 31
SECTION 4.1 Establishment and Interpretation of Zoning Districts 31
SECTION 4.2 Interpretation of Zoning District Boundaries 31
SECTION 4.3 Zoning District Purpose 32
SECTION 4.4 Zoning District Uses and Dimensional Standards 33
SECTION 4.5 Village District Standards 36
SECTION 4.6 Pond and Swamp District Standards 40
SECTION 4.7 Upland District Standards 40

DRAFT

Deleted: Town of Fairfield, Vermont –

SECTION 4.8 Overlay District Standards 40
Article 5 – General Regulations 42
SECTION 5.1 Applicability 42
SECTION 5.2 Land Uses 42
SECTION 5.3 Structures 42
SECTION 5.4 Abandonment and Restoration 43
SECTION 5.5 Access and Driveways 44
SECTION 5.6 Nonconforming Use, Structures, and Lots 45
SECTION 5.7 Outdoor Lighting 47
SECTION 5.8 Parking 48
SECTION 5.9 Performance Standards 49
SECTION 5.10 Signs 49
SECTION 5.11 Storage of Junk and Junk Motor Vehicles 51
SECTION 5.12 Wastewater and Potable Water Supply 51
Article 6 – Specific Use Regulations 52
SECTION 6.1 Applicability 52
SECTION 6.2 Accessory Dwelling Units 52
SECTION 6.3 Agricultural Housing 52
SECTION 6.4 Campgrounds and Recreational Vehicles 53
SECTION 6.5 Elderly Housing and Multi-Household Dwellings 53
SECTION 6.6 Excavation and Earth Resource Extraction 54
SECTION 6.7 Gas Stations 55
SECTION 6.8 Home Occupation and Home Industry 56
SECTION 6.9 Industrial Uses 57
SECTION 6.10 Mixed Use 58
SECTION 6.11 Mobile Homes and Mobile Home Parks 58
SECTION 6.12 Public Facilities 59
SECTION 6.13 Salvage Yards 60
SECTION 6.14 Seasonal Conversions 60
SECTION 6.15 Telecommunications Facilities 61
Article 7 – Subdivision Review and Regulations 65
SECTION 7.1 Applicability and Classification 65
SECTION 7.2 Subdivision Application Requirements 66
SECTION 7.3 Boundary Line Adjustment Review Procedure 69
SECTION 7.4 Subdivision Review Procedure 69

DRAFT

SECTION 7.5 Filing of Final Survey Plat 70
SECTION 7.6 Legal Requirements 71
SECTION 7.7 Expiration 72
SECTION 7.8 Subdivision Amendments 72
SECTION 7.9 Subdivision Review Standards 72
SECTION 7.10 Natural Subdivision 74
Article 8 – Planning and Design Regulations 75
SECTION 8.1 Applicability 75
SECTION 8.2 Landscaping and Screening 75
SECTION 8.4 Conservation Resources 78
SECTION 8.5 Stormwater Management and Erosion Control 80
SECTION 8.6 Utilities 81
Article 9 – Flood Hazard and River Corridor Regulations 82
SECTION 9.1 Statutory Authorization and Effect 82
SECTION 9.2 Purpose 82
SECTION 9.3 Administration 82
SECTION 9.4 Application Requirements in Flood Hazard Area Overlay District 85
SECTION 9.5 Development Review Process in Flood Hazard Area Overlay District 86
SECTION 9.6 Development Review Standards in Flood Hazard Area Overlay District 88
SECTION 9.7 Standards For Review of Nonconforming Structures 95
SECTION 9.8 Variances in the Flood Hazard Area Overlay District 95
SECTION 9.9 Certificate of Occupancy 96
SECTION 9.10 Violations 96
SECTION 9.11 Definitions 96
Article 10 – Definitions 104
SECTION 10.1 Applicability, Terms and Uses 104
SECTION 10.2 Definitions 104
Fairfield Zoning Map 112
A-76 Standard 113
B-71 Standard 114

DRAFT

Deleted: Town of Fairfield, Vermont –

Deleted: Table of Contents 2¶
Article 1 – Authority and Purpose . 5¶
SECTION 1.1 Statutory Authorization and Enactment 5¶
SECTION 1.2 Purpose . 5¶
SECTION 1.3 Applicability 5¶
SECTION 1.4 Severability . 5¶
SECTION 1.5 Interpretation 5¶
SECTION 1.6 Computation of Time . 6¶
Article 2 – Administration and Enforcement 8¶
SECTION 2.1 Administration . 8¶
SECTION 2.2 Fees 9¶
SECTION 2.3 Independent Technical Review . 9¶
SECTION 2.4 Public Notice for Meetings and Hearings 10¶
SECTION 2.5 Meeting and Hearing Requirements . 10¶
SECTION 2.6 Decisions 11¶
SECTION 2.7 Recording Requirements . 12¶
SECTION 2.8 Combined Review 12¶
SECTION 2.9 Appeals . 13¶
SECTION 2.10 Certificate of Occupancy 13¶
SECTION 2.11 Violations and Enforcement . 14¶
Article 3 – Development Review Procedures and Standards 16¶
SECTION 3.1 Permitting Process and Zoning Permits . 16¶
SECTION 3.2 Site Plan Review 23¶
SECTION 3.3 Conditional Use Review . 25¶
SECTION 3.4 Variance Review 27¶
SECTION 3.5 Planned Unit Development . 28¶
Article 4 – Zoning Districts and District Regulations 32¶
SECTION 4.1 Establishment and Interpretation of Zoning Districts . 32¶
SECTION 4.2 Interpretation of Zoning District Boundaries 32¶
SECTION 4.3 Zoning District Purpose . 33¶
SECTION 4.4 Zoning District Uses and Dimensional Standards 34¶
SECTION 4.5 Village District Standards . 36¶
SECTION 4.6 Pond and Swamp District Standards 41¶
SECTION 4.7 Upland District Standards . 42¶
SECTION 4.8 Overlay District Standards 42¶
Article 5 – General Regulations . 43¶
SECTION 5.1 Applicability 43¶
SECTION 5.2 Land Uses . 43¶
SECTION 5.3 Structures 43¶
SECTION 5.4 Abandonment and Restoration . 44¶
SECTION 5.5 Access and Driveways 45¶
SECTION 5.6 Nonconforming Use, Structures, and Lots . 46¶
SECTION 5.7 Outdoor Lighting 48¶
SECTION 5.8 Parking . 49¶
SECTION 5.9 Performance Standards 50¶
SECTION 5.10 Signs . 51¶
SECTION 5.11 Storage of Junk and Junk Motor Vehicles 52¶
SECTION 5.12 Wastewater and Potable Water Supply . 52¶
Article 6 – Specific Use and Structure Regulations 53¶
SECTION 6.1 Applicability . 53¶
SECTION 6.2 Accessory Dwelling Units 53¶
SECTION 6.3 Agricultural Housing . 53¶
SECTION 6.4 Campgrounds and Recreational Vehicles 54¶
...

Article 1 – Authority and Purpose

SECTION 1.1 Statutory Authorization and Enactment

A. In accordance with the Vermont Planning and Development Act (24 V.S.A., Chapter 117), hereinafter referred to as "the Act", there are hereby established zoning bylaws and subdivision bylaws (development regulations) for Fairfield, Vermont. These regulations, upon adoption, and while in effect, shall amend in their entirety any existing zoning and subdivision bylaw for the Town of Fairfield. These regulations shall take effect and may be amended only according to the procedures and requirements specified in 24 V.S.A. §4441 and §4442 of the Act.

SECTION 1.2 Purpose

A. It is the purpose of these regulations to encourage the appropriate development of all lands in this community in a manner which will promote the public health, safety, morals, prosperity, comfort, convenience, efficiency, economy and general welfare; to provide means and methods for the community to effect the prevention, minimization and future elimination of such land development problems as may presently exist or which may be foreseen; and to particularly implement the goals and policies of the Fairfield Town Plan.

Preparation of these regulations has been based upon surveys of existing conditions and probable future trends, with reasonable consideration for the landowner; topography; to needs and trends of Fairfield; to the character of each area and to its peculiar suitability for particular uses in relationship to surrounding areas, and with a view to conserving the value of property.

SECTION 1.3 Applicability

A. No land development (as defined in Article 10) shall commence except in compliance with all provisions of these regulations. Any land development not authorized under these regulations shall be prohibited. The provisions of these regulations shall take precedence over any less restrictive controls.

SECTION 1.4 Severability

A. If any portion of these regulations is held unconstitutional or invalid by a court of competent jurisdiction, the unaffected portions shall remain in force, and for this purpose the provisions of these regulations are severable.

SECTION 1.5 Interpretation

A. These regulations shall not repeal, abrogate, or impair any other applicable land use controls (including statutes, regulations, rules, ordinances, permits, easements, deed restrictions, covenants, or similar devices). However, in their interpretation and application, the provisions of these regulations shall be held to be minimum requirements which shall take precedence over any concurrent and less restrictive such control.

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Deleted: of 2002, which is Incorporated by Reference here; and the following specific aims:¶
¶
To provide sufficient space in appropriate locations for forest and agriculture, for residential, recreational, commercial and industrial development, and for public and semi-public facilities in the light of their respective environmental needs and of their mutual interrelationships, in order to meet the needs of all residents of the Town;¶
¶
To protect soil, forests, water and other natural resources;¶
¶
To enable the mitigation of the burden of property taxes on agricultural, forest and other open land;¶
¶
To protect and preserve the historic features of the landscape and the town; to preserve open space and to provide a sound economic basis for its maintenance as open space; to facilitate the growth of Fairfield in a manner to create an optimum rural environment; to encourage a rational and convenient pattern of settlement; and good civic design; and in particular to encourage and enhance the attractiveness of the Fairfield scene and landscape.¶ ...

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SECTION 1.6 Computation of Time

A. When computing a period of time beginning with an event (e.g. submission of a permit application) the day of the event shall not be counted and the final day shall be counted per 24 V.S.A. §4303a.

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TABLE 1.1
MUNICIPAL PERMITS AND APPROVALS: TOWN OF FAIRFIELD

Permit/Approval	Required for	Issued by	See
Zoning Permit	All land development as defined in Article 10, including signs, accessory structures, conversions and changes of use unless specifically exempted from these regulations under Section 3.1.	Zoning Administrator	Section 3.1
Site Plan Review	All uses identified as requiring site plan review in Table 4.1.	Planning Commission	Section 3.2
Conditional Use Review	All uses classified as conditional uses in certain zoning districts in Table 4.1.	Board of Adjustment	Section 3.3
Variance Review	Requests for a variance from the provisions of these regulations.	Board of Adjustment	Section 3.4
Planned Unit Development	All applications for planned unit developments as defined in Article 10.	Planning Commission	Section 3.5
Approval in Flood Hazard Area Overlay District	Requests for land development in the Flood Hazard Area Overlay District.	Board of Adjustment	Article 9
Certificate of Occupancy	All new principal structures, additions to principal structures, and accessory dwelling units that have been issued a zoning permit before such structures may be occupied for their intended use.	Zoning Administrator	Section 2.10
Subdivision Review	All land subdivisions as defined in Article 10, including boundary line adjustments.	Planning Commission	Article 7
Sketch Plan Review	All applications for subdivision review.	Planning Commission	Section 7.4
Final Plan Review	All applications for subdivision review.	Planning Commission	Section 7.4
Plat Recording	All approved subdivisions of land, including boundary line adjustments.	Planning Commission	Section 7.5
Access by Right-of-Way Approval	Development on or access to lots without frontage on a maintained public road or public waters.	Planning Commission	Article 5.5

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Article 2 – Administration and Enforcement

SECTION 2.1 Administration

A. **Administration.** These regulations shall be administered by a Zoning Administrator, the Planning Commission and the Board of Adjustment (ZBA), whose appointment, removal, power and duties shall be as prescribed in Subchapters 9 and 10 of the Act.

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B. **Zoning Administrator.**

1. These regulations shall be administered and enforced by a Zoning Administrator, nominated by the Planning Commission and appointed for a term of 3 years by the Selectboard in accordance with 24 V.S.A. §4448. The Selectboard may remove the Zoning Administrator from office for just cause after consulting with the Planning Commission. The compensation of the Zoning Administrator shall be fixed under 24 V.S.A. §§932 and 933, and the Zoning Administrator shall be subject to the personnel rules of the Town .

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2. The Zoning Administrator shall administer these regulations literally and shall not have the power to permit any land development which is not in conformance with these regulations. The Zoning Administrator may make reasonable inspections as they deem necessary to determine compliance, and shall maintain a full and accurate record, available to the public, of all applications and fees received, permits issued and denied, and violations enforced

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3. In the absence or disability of the Zoning Administrator, an acting Zoning Administrator may be appointed and empowered in the same manner as provided in (1) and (2) above. The term of an acting Zoning Administrator shall be determined by the Selectboard.

C. **Planning Commission.** In accordance with 24 V.S.A. §4322 and §4323, a Planning Commission consisting of not less than 3 nor more than 9 voting members shall be appointed by the Selectboard for terms determined by the Selectboard. Selectboard members shall be nonvoting ex officio members of the Planning Commission. At least a majority of the Commissioners shall be residents of the Town of Fairfield. The Selectboard shall fill vacancies for the unexpired terms and upon the expiration of terms. Any member of the Planning Commission may be removed at any time by unanimous vote of the Selectboard.

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1. The Planning Commission shall have all of the powers set forth in the Act to administer the provisions of these bylaws, including but not limited to, the power to:

   a. Prepare amendments to these regulations and other regulations as permitted by the Act.
   b. Prepare and update the municipal plan not less than every 8 years and prepare amendments to the plan as necessary.
   c. Respond to projects under "Act 250," "Section 248," and "Section 248a" review.
   d. Review right-of-way or easement for land development without frontage.
   e. Review of PUDs.
   f. Review of proposed subdivisions.

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2. The Planning Commission shall adopt rules necessary and appropriate for the performance of its function in conformance with the 24 V.S.A. §4323 and Vermont's Open Meeting Law (1 V.S.A. §§310-314). All meetings and hearings of the Commission shall be conducted by not less than a majority of the members of the Commission, and shall be open to the public. Any action of the Commission shall be taken only by concurrence a majority of the members. For each case heard and decided, the Commission shall follow the administrative requirements of this article.

D. **Board of Adjustment**. The Board of Adjustment shall consist of not less than 3 nor more than 9 members, as the Selectboard determines. Members of the board of adjustment shall be appointed by the Selectboard for terms determined by the Selectboard. Any member of the Board of Adjustment may be removed for just cause by the Selectboard upon written charges and after a public hearing. The Board shall adopt rules of procedure and ethics policies with regard to conflicts of interest in accordance with the requirements of the 24 V.S.A. §4461 and Vermont's Open Meeting Law (1 V.S.A. §§310-314). The Board of Adjustment shall have the following powers and duties:

1. To hear and decide appeals including, without limitation, any decision or act by the Zoning Administrator.

2. To hear and decide applications variances and conditional use review.

SECTION 2.2 Fees

A. The Selectboard shall establish a schedule of application fees and amend the schedule as needed to cover some or all of the cost of the administration and enforcement of these regulations. In accordance with the 24 V.S.A. § 4440, the fee schedule may include provisions that require applicants to pay for reasonable costs of an independent technical review of their applications (Section 2.3). The schedule of fees shall be posted in the offices of the Town Clerk and Zoning Administrator, and may be altered or amended by resolution of the Selectboard.

SECTION 2.3 Independent Technical Review

A. **Independent Technical Reviews.** Pursuant to 24 V.S.A. § 4440(d), the Planning Commission or the Board of Adjustment may require an applicant for land development that requires any type of development review approval to pay for the reasonable costs of an independent technical review of the application. This may include professionals qualified to review traffic studies, environmental impact analyses, fiscal impact analyses, or any other document or study needed to ensure conformance with these regulations. Accordingly:

1. The Planning Commission or Board of Adjustment shall prepare a detailed scope for the technical review. The scope shall address the review criteria upon which the Planning Commission or Board of Adjustment is required to base its decision on the application, and require that the review be completed in a timely manner, as specified by the Planning Commission or Board of Adjustment.

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Deleted: <#>The Planning Commission acting through its chairperson or a duly authorized delegate may conduct pre-hearing conferences upon due notice and request by an applicant. The purpose of any pre-hearing conference shall be to clarify issues in controversy; identify documents, plans, detailed information that should be submitted as evidence at a hearing; and to circumvent untimely and unnecessary delays that would interfere with an expeditious public hearing process. The results of such conference shall be made in writing, signed by the Chair, and made available to all interested parties to the hearing¶
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To hear and decide an appeal for

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To impose (for variances and conditional uses), reasonable conditions and safeguards as it deems appropriate and necessary, including those within this by-law and the following:¶
¶
Limiting the coverage or height of buildings because of undue obstruction to view and reduction of light and air to adjacent property.¶
Controlling the location and number of vehicular access points to developments, to minimize traffic hazards;¶ ...

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2. The Planning Commission or Board of Adjustment, in consultation with the Selectboard, shall retain a competent and, when applicable, licensed individual or company qualified in the pertinent field(s) to conduct the independent review.

3. The cost of the review shall be paid for by the applicant, in accordance with procedures established by the Selectboard.

SECTION 2.4 Public Notice for Meetings and Hearings

A. **Meeting Notice**. All meetings of the Planning Commission and meetings of the Board of Adjustment shall meet the requirements of Vermont's Open Meeting Law (1 V.S.A. §§310-314).

B. **Hearing Notice**. A warned public hearing shall be required for conditional use review, appeals of decisions of the Zoning Administrator, variances, subdivision review, site plan review, and all other types of development review requiring a hearing. Any public notice for a warned public hearing shall be given not less that fifteen (15) days prior to the date of the public hearing by all of the following:

1. Publication of the date, time, place, and purpose of the hearing in a newspaper of general circulation in the municipality.

2. Posting of the same information in three (3) or more public places within the municipality, in conformance with location requirements of 1 V.S.A. § 312(c)(2), including the posting of a notice on a form provided by the Town of Fairfield within view from the public right-of-way nearest the property for which application is being made.

3. Written notification to the applicant and to owners of all properties adjoining the property subject to development including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a State highway, also including written notification to the Secretary of Transportation. The notification shall include 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.

4. For hearings on subdivision plats located within five hundred (500) feet of a municipal boundary, written notification to the clerk of the adjoining municipality shall be provided.

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C. No defect in the form or substance of any required public notice under this section shall invalidate the action of the Planning Commission or Board of Adjustment 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.

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SECTION 2.5 Meeting and Hearing Requirements

A. All meetings and hearings of the Planning Commission and Board of Adjustment, except deliberative and executive sessions, shall be open to the public.

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B. For the conduct of a hearing, and the taking of any action, a quorum shall not be less than the majority of the total number of members of the Planning Commission or the Board of Adjustment. Any action of a Planning Commission or the Board of Adjustment shall be taken by concurrence of the majority of the total number of members of the Planning Commission or the Board of Adjustment (vacancies and absences must be counted).

C. The Planning Commission and Board of Adjustment shall keep minutes of all their proceedings, showing the outcome of each vote, record of its examination, and other official actions, filed in the Town Clerk's Office as public records.

D. Public hearings of the Planning Commission and the Board of Adjustment shall be noticed and warned in accordance with Section 2.4. In any public hearing of the Planning Commission or Board of Adjustment, there shall be an opportunity for each person wishing to achieve status as an interested person for the purposes of appeal under Section 2.9 to demonstrate that the criteria, as defined in Article 10, are met. The Planning Commission and Board of Adjustment shall keep record of the name, address and participation of each of these persons.

E. The Planning Commission and Board of Adjustment may:

1. Examine or cause to be examined, any property, maps, books, or records bearing upon matters concerned in that proceeding.

2. Require the attendance of any person having knowledge concerning the application.

3. Take testimony and require proof material for its information, and may administer oaths or take acknowledgment in respect of those matters

4. Require an independent technical review of one or more aspects of an application under Section 2.3.

5. Recess or continue a hearing on any application or appeal pending submission of additional information, provided that the next recessed hearing's date, time and place are announced at the hearing.

SECTION 2.6 Decisions

A. The Planning Commission and the Board of Adjustment shall issue a written decision within forty-five (45) days after the adjournment of a hearing. Failure to issue a decision within the forty-five (45) day period shall be considered deemed approval and shall be effective on the forty-sixth (46th) day. In addition:

1. All decisions shall be issued in writing and shall state findings of fact and conclusions of law. Findings of fact shall include a statement of the factual bases on which the Planning Commission or Zoning Board of Adjustment has made its conclusions and a statement of the conclusions. The decisions shall also include a statement of the time within which an appeal (Section 2.9) may be taken.

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2. In making a decision in favor of the applicant, the Planning Commission or Board of Adjustment may attach conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect.

3. **Bonding.** The Planning Commission or Board of Adjustment may require a performance bond or other form of surety to ensure the completion of the project, adequate stabilization, and/or protection of public facilities that may be affected by a project. The amount and form of such surety shall be subject to the approval of the Selectboard. The bond shall be released only when the conditions have been satisfied in the judgment of the Selectboard in consultation with the Planning Commission or Board of Adjustment (whichever is applicable).

4. All decisions shall be sent to the applicant or appellant by certified mail within the forty-five (45) day period. Copies of each decision shall also be mailed to every person or body appearing and having been heard at the hearing and a copy of the decision shall be filed with the Zoning Administrator and the Town Clerk as a part of the public records of the Town.

SECTION 2.7 Recording Requirements

A. Within thirty (30) days after the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver the original or a legible copy to the Town Clerk for recording in the municipal land records as provided in 24 V.S.A. §1154(a). The applicant may be charged the cost of the recording fees as required by law. A copy of each land use permit shall be filed in the Town office in a location where all municipal land use permits shall be kept.

SECTION 2.8 Combined Review

A. In accordance with 24 V.S.A. §4462, in cases where a proposed project will require more than one type of development review, the Planning Commission and Board of Adjustment may warn and hold a joint hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. In cases where a joint hearing cannot be conducted to address each necessary review, the proceedings for each review may occur concurrently or semi-concurrently (initiating one review process while the preceding process is nearing completion).

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B. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing. As applicable, the combined review process shall be conducted in the following order:

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1. Site Plan review;
2. Access by right-of-way;
3. Requests for Waivers or Variances;
4. Subdivision approval (preliminary and final);

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5. Conditional use review.

C. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated and combined where appropriate.

SECTION 2.9 Appeals

A. Appeal of a Zoning Administrator's Decision.

1. Any interested person may appeal any decision or action taken by the Zoning Administrator by filing a written notice of appeal with the secretary of the Board of Adjustment, or with the Town Clerk if no such secretary has been elected, within 15 days of such decision or act, and a copy of the notice of appeal shall be filed with the Zoning Administrator. The notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

2. Within 60 days of filing of a notice of appeal, the Board of Adjustment shall hold a public hearing. Public notice for any appeal hearing shall comply with Section 2.4.

3. Upon adjournment of a hearing, the Board shall render its decision on the appeal per the requirements in Section 2.6.

4. The Board may reject an appeal without hearing, and render a decision and findings of fact within ten (10) days of the filing of the notice of appeal, if the Board of Adjustment considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by said appellant.

B. Appeal of Planning Commission or Board of Adjustment Decision.

1. An interested person who has participated in proceeding before the Planning Commission or Board of Adjustment may appeal any decision of the Planning Commission or Board of Adjustment to the State of Vermont Superior Court, Environmental Division, within thirty (30) days of the issuance of the decision. Participation in the proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

2. Notice of appeal shall be filed by certified mail with fees to the Environmental Division and by mailing a copy to the Zoning Administrator who shall supply a list of interested persons to the appellant within 5 (five) 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 and, in any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the Division to intervene.

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The Board of Adjustment is hereby authorized to conduct a public pre-hearing conference with the appellant under such rules, as the Board shall establish in its bylaws and rules of procedure. The purpose of such pre-hearing conferences shall be to clarify the issues in controversy, to identify documents and information to be submitted as evidence at the hearing, and to circumvent unnecessary delays that would interfere with an expeditious public hearing process.¶

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SECTION 2.10 Certificate of Occupancy

A. All new principal structures, additions to principal structures, and accessory dwelling units that have been issued a zoning permit shall receive a Certificate of Occupancy from the Zoning Administrator before such structures may be occupied for their intended use. A Certificate of Occupancy shall be issued by the Zoning Administrator if the following criteria have been met:

1. The structure and the use of the property conform to the applicable zoning permit and the provisions of these regulations. A site visit to the subject property by the Zoning Administrator may be required to ensure conformance with this requirement.

2. The structure and/or use has a Wastewater and Potable Water Supply Permit from the State of Vermont, if required (see Section 5.12).

3. The structure has a 911 address number displayed in a location that is visible from the road (public or private).

4. The structure and/or use complies with all other applicable Town ordinances and regulations.

5. If a certificate, is required per 30 V.S.A. §51 (residential building energy standards) or 30 V.S.A. §53 (commercial building energy standards), a signed copy of such certificate shall be provided to the Zoning Administrator before the issuance of a Certificate of Occupancy.

6. If an applicant has applied for a Certificate of Occupancy for the installation of a new mobile home or new manufactured home, the applicant shall provide the Zoning Administrator with a copy of a completed HUD Form 309 (as required in 24 C.F.R. §3285 and §3286) before the Certificate of Occupancy is issued.

7. If the property is subject to regulation under Article 9 Flood Hazard and River Corridor Regulations the standards in Section 9.9 Certificate of Occupancy shall be met before the Certificate of Occupancy is issued.

B. It shall be unlawful to use or occupy or permit the use or occupancy of any premises for which a Certificate of Occupancy has not been issued.

SECTION 2.11 Violations and Enforcement

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A. **Violations**. The commencement or continuation of any land development, subdivision or land use which is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the 24 V.S.A. §§ 4451, 4452 and/or as a civil matter enforced in accordance with the provisions 24 V.S.A. §§ 1974a et. seq. at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.

B. **Notice of Violation**. Pursuant to 24 V.S.A.§ 4451, no action may be brought under this Section unless the alleged offender has had at least 7 days notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7-day period, and that the alleged offender will not be entitled to an

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additional warning notice for a violation occurring after the 7-day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7-day notice period and within the next succeeding 12 months. Violations shall be recorded in the land records pursuant to Section 2.7. A notice of violation shall also state;

1. the bylaw provision or permit condition alleged to have been violated;

2. the facts giving rise to the alleged violation;

3. to whom appeal may be taken and the period of time for taking an appeal; and

4. that failure to file an appeal within that period will render the notice of violation the final decision on the violation addressed in the notice.

C. **Enforcement.** In accordance with 24 V.S.A. §§ 4451, 4452, the Zoning Administrator shall commence or cause to be commenced in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these regulations.

1. **Vermont Superior Court - Environmental Division**. The Zoning Administrator may pursue or cause to be pursued any appropriate action, injunction or other proceeding in the name of the municipality to enforce the provisions of these regulations through the Environmental Division of Vermont Superior Court. All fines imposed and collected for violations shall be paid over to the municipality.

2. **Civil Enforcement Pursuant to 24 VSA § 1974a.** The Zoning Administrator may pursue or cause to be pursued enforcement action in the name of the municipality through the Judicial Bureau if the penalty for all continuing violations is $800.00 or less. All enforcement matters under Title 24, Chapter 117 greater than $800.00 shall be brought in the Environmental Division of Vermont Superior Court. For purposes 24 V.S.A. 1971(b), these Land Use and Development Regulations shall be designated as a civil ordinance Penalties shall be imposed for violations of any provision of these regulations in accordance with 24 VSA §1974a and the schedule below:

   a. A civil penalty of $50 shall be imposed for the first violation of these regulations. The penalty for the second offense shall be $100. The penalty for each subsequent offense shall be $200.

   b. A waiver fee may be collected, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amounts for each violation. The waiver fee shall be set at $25 for the first offense, $50 for the second offense, and $100 for each subsequent offense.

3. **Enforcement Limitations.**

   a. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in 24 V.S.A. §4454. An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of the date the alleged violation first occurred, and not thereafter. The

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burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

b. No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by 24 V.S.A. §4449.

c. Nothing in this Section shall prevent any action, injunction or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to, the municipality's authority under Title 18 relating to the abatement or removal of a public health risk or hazard.

D. **Complaints**. Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The complaint shall state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly memorialize such a complaint, investigate, and take action as appropriate in accordance with these regulations.

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On all matters heard and decided by the Board of Adjustment, it shall make findings of fact and conclusions of law as part of the record in each case.¶

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Article 3 – Development Review Procedures and Standards

SECTION 3.1 Permitting Process and Zoning Permits

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See Figure 3.1 for a flow chart of the process to obtain a zoning permit.

A. **Applicability.** No land development as defined herein shall commence without a zoning permit issued by the Zoning Administrator, unless specifically exempted under Section 3.1(F) of these regulations. Land development may require one or more board approvals before the Zoning Administrator may issue a zoning permit. Specific activities included in the definition of land development that require a zoning permit include, but are not limited to, the following:

- Erecting a new structure
- Moving a structure
- Adding footprint area or height to an existing structure
- Initiating a new land use
- Changing from one type of land use to a different type of land use
- Moving an existing land use to another property
- Grading, excavation, and placement of fill

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B. **Application Requirements.** Applications for zoning permits shall be made on the Fairfield Zoning Permit Application Form provided by the Town and submitted by the landowner, or an authorized agent, directly to the Zoning Administrator. The applicant shall pay the required fee and provide all information requested on the form and any other information that the Zoning Administrator may reasonably require to determine compliance with these regulations in accordance with the Act.

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C. **Zoning Permit Approval Requirements.** The Zoning Administrator review applications in accordance with the following five (5) standards:

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1. **Does the proposal require review by the Planning Commission or Board of Adjustment**? Planning Commission approval is required for site plan review (Section 3.2), PUD (Section 3.5) and subdivision approval (Article 7). Board of Adjustment approval is needed for conditional uses (Section 3.3), requests for variances (Section 3.4) and requests for waivers. Nonconformities shall comply with Section 5.6 and may require Board of Adjustment approval. The Zoning Administrator can aid an applicant in determining which approvals may be needed. All required Planning Commission and/or Board of Adjustment approvals must be obtained before the Zoning Administrator may issue a zoning permit.

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2. **Does the proposal meet the zoning district use and dimensional standards?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the use proposed is a permitted use according to Table 4.1 or has received conditional use and/or site plan approval from the PC and/or Board of Adjustment. In addition, the Zoning Administrator shall confirm that the proposal conforms to the dimensional standards, including setbacks, as listed in Table 4.1.

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3. **Does the proposal meet the standards in Article 4, Article 5, Article 6 and Article 9?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal conforms to the decision and conditions imposed in the PC and/or ZBA approval (if one exists) and meets the standards in Article 4, Article 5, Article 6 and Article 9, as applicable.

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4. **Has the applicant obtained all other required local permits or approvals?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal has obtained all required local permits and approvals, including but not limited to approval for a curb cut on a town highway (access permit) and conformance with municipal road ordinances.

5. **Are there any State Permits and/or Approvals Required?** As a general rule, zoning permits shall not be conditioned on any required state permits or approvals. However, the Zoning Administrator shall require the following before the issuance of a zoning permit in relation to state permits, as applicable:

   a. If a Wastewater and Potable Water Supply Permit is not required, the applicant shall provide written proof of such from the Vermont Department of Environmental Conservation. See Section 5.12 for requirements relating to the initiation of construction and Certificates of Occupancy concerning Wastewater and Potable Water Supply permits.

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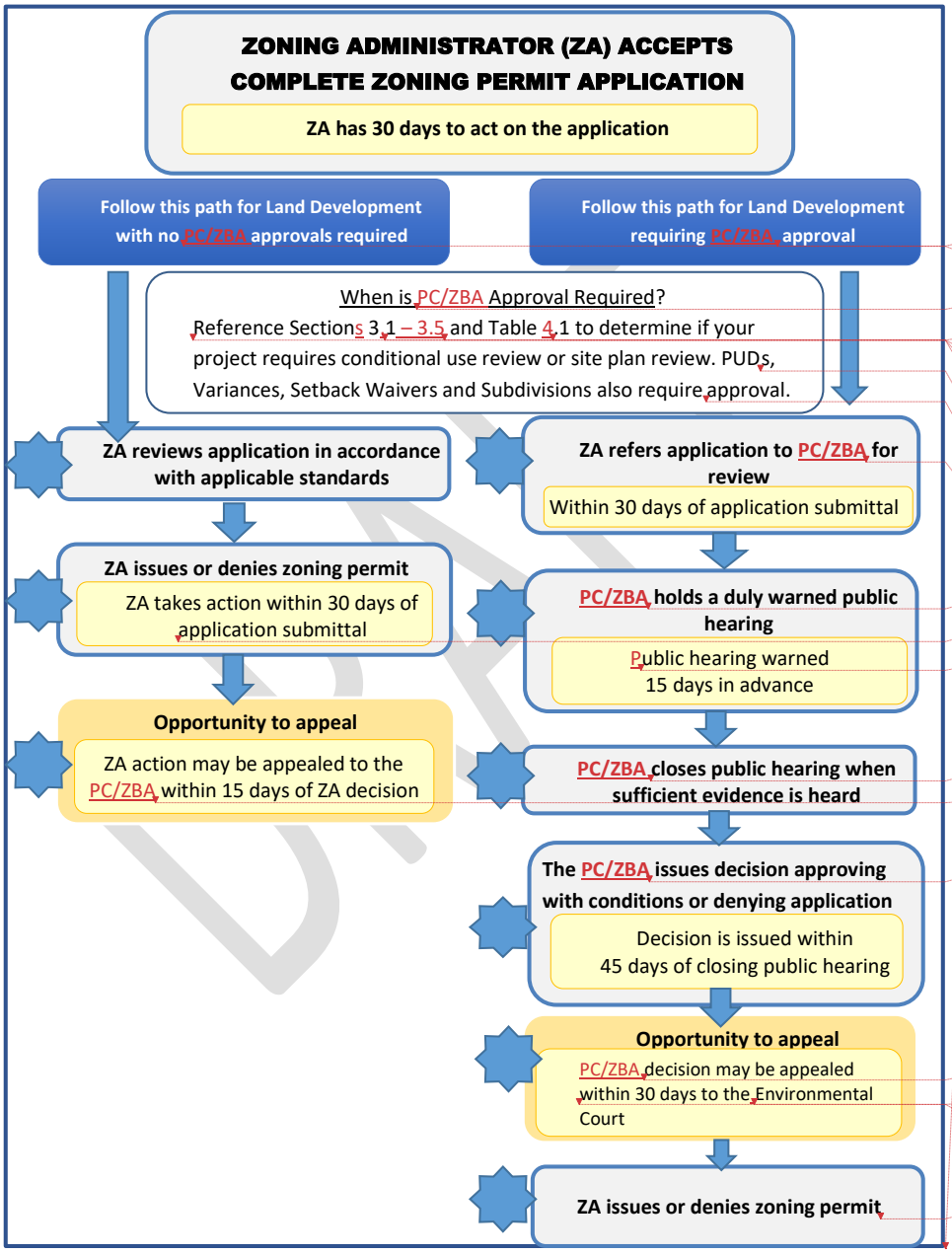
Figure 3.1. Timeline for Zoning Permits and Approvals



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D. **Issuance of Zoning Permit.** A zoning permit shall be issued by the Zoning Administrator only in accordance with the 24 V.S.A. §4449 and these regulations. If, in the opinion of the Zoning Administrator, a proposal for a permitted use as set forth in these regulations is not in conformance with the provisions of these regulations, the Zoning Administrator shall deny the zoning permit. The Zoning Administrator must refer all applications requiring Board approval, including conditional use review, site plan review, variance, waivers, planned unit developments, access by right-of-way, and/or subdivision review, to the appropriate board.

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Zoning Permit Public Notice, Issuance, Effective Date and Expiration. Public notice and issuance requirements shall be met before a zoning permit may be issued according to Section 2.4.…

1. Within thirty (30) days of receiving a complete permit application, including all materials and fees, the Zoning Administrator shall either issue or deny a permit in writing, or refer the application to the Planning Commission and/or Zoning Board of Adjustment for their review and action. Each permit or denial issued shall include a statement of the time in which appeals may be made under Section 2.9. If the Zoning Administrator fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the Planning Commission and/or Zoning Board of Adjustment, a permit shall be deemed issued on the 31st day.

2. The applicant must post a permit notice on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property for a fifteen (15) day appeal period during which time appeals may be accepted. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found. For zoning permits issued for a new single household dwelling or two household dwelling, the Zoning Administrator shall also send written notice to all adjacent property owners notifying them that a zoning permit has been issued. The written notice shall contain the above cited information about appeals and where information about the zoning permit may be found.

3. Within three (3) days of issuing a permit, the Zoning Administrator shall post a copy in the Town Clerk's Office until the expiration of the appeal period and shall provide a copy of the permit to the Listers. Within thirty (30) days of issuing a permit the Zoning Administrator shall deliver a copy of the permit to the Town Clerk for recording in the municipal land records.

4. All permits are issued for a specific site and are not transferable to any alternative site or parcel. All permits shall run with the land.

E. **Zoning Permit Effective Date, Extensions, and Board Approvals.**

1. **Effective Date.** No zoning permit shall take effect until the time for appeal under Section 2.9 has passed or, in the event that a notice of appeal is properly filed, until adjudication of that appeal by the Zoning Board of Adjustment is complete and the time for taking an appeal to the Environmental Division has passed without an appeal being taken. All development approved under these regulations shall be completed or established within one (1) year from the date of issuance of the permit, unless the permit specifies otherwise. The Zoning Administrator shall make a determination as to whether the development has been completed or established. Failure to complete or establish the proposed development shall render the permit void. At a minimum, established development must include the complete construction of an access, a foundation, and a water supply and wastewater system.

2. **Permit Extensions**. The Zoning Administrator may administratively issue one (1) permit extension of not more than one (1) year, if the application for an extension is made in writing prior to permit expiration, and it is determined by the Zoning Administrator that the extension is justified due to delays in the issuance of other necessary permits, project financing, or other unforeseen circumstances.

3. **Expiration of Board Approvals.** Approvals granted by the Planning Commission and Zoning Board of Adjustment shall expire five (5) years from the date of the issuance of the associated written decision. The Planning Commission and Board of Adjustment may grant a longer period of time for associated approvals to remain in effect, as specified in the written decision, to accommodate phased development or projects that reasonably may require more than five (5) years to complete. This regulation shall not apply to subdivision approval (see Section 7.7).

F. **Exemptions**. A zoning permit shall not be required for the following types of land development:

1. **State Exemptions.** These regulations shall not regulate the following types of land development exempted in state statute:

a. Required Agricultural Practices as those practices are defined by the Secretary of Agriculture, Food and Markets. Violations of the Required Agricultural Practice Rules may be reported by the municipality to the Commission of Agriculture, Food and Markets for enforcement.

b. Farm structures associated with required agricultural or farming practices are exempt. However, the Town of Fairfield shall be notified of the intent to build a farm structure associated with a required agricultural or farming practice according to 24 V.S.A. §4413(d)(3) of the Act and the provisions below:

i. For purposes of these regulations, "farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. §6001(22), but excludes a dwelling for human habitation.

ii. A person shall notify the Zoning Administrator in writing of the intent to build a farm structure, shall provide a site plan with the proposed facility, and a letter of determination from the Agency of Agriculture, Food and Markets indicating that the proposed structure is a farm structure. The structure shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal land use permit for a farm structure shall be required. The Zoning Administrator shall provide a copy of the intent to build a farm structure to the listers.

iii. All farm structures within the Flood Hazard Area Overlay (see Article 9) shall be constructed and maintained in accordance with the requirements of the rules established by the Vermont Agency of Natural Resources.

c. Accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.

d. Forestry operations as defined in 10 V.S.A. §2602.

e. Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Utility Commission (under 30 V.S.A. §248), including net-metered wind generation facilities and solar panels.

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<#>Local setbacks established by the municipality shall be maintained unless, upon written petition by the farmer, the Commissioner of Agriculture, Food and Markets has approved other reasonable setbacks for the specific farm structure being constructed or maintained. Such approval shall be attached to the notification filed with the Zoning Administrator.¶

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f. Hunting, fishing or trapping on public or private land as specified under 24 V.S.A. §2295. This does not include facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these regulations.

2. **Local Exemptions.** The following types of land development are exempt from local regulation (unless located in the Flood Hazard Area Overlay District):

a. Modifications of building interiors if no change of use is proposed; repairs and minor alterations (including but not limited to chimneys, re-roofing or re-siding) to existing structures not resulting in any change to the exterior dimensions or height of the structure.
b. Any residential fence or wall less than six (6) feet in height which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or sight distances for vehicular traffic.
c. Any minor accessory structure, such as a dog house, child's play house, tree house, shed or similar structure, which meets all of the following requirements:
   i. A floor area of one hundred (100) square feet or less;
   ii. A height of 10 feet or less; and
   iii. Not attached to a permanent foundation, such as poured concrete.
   iv. Located at least 5 feet from a property line and 35 feet from the edge of a public or private road right of way.
d. Handicap ramps.
e. Stairs to access single-household dwellings and two-household dwellings.
f. Garage sales, yard sales, auctions or other similar types sales not exceeding three (3) consecutive days, nor more than six (6) days per calendar year.
g. The stabilization of damaged structures to prevent imminent hazards to public health and safety, and to adjoining properties; or for the repair, restoration or reconstruction of damaged structures to the extent of their prior condition and use per Section 5.4.
h. Gardening and other non-commercial agricultural activities, excavations in cemeteries, and the removal or extraction of topsoil, rock, sand, gravel or other similar material in connection with the construction of a permitted structure or other permitted use.
i. Resurfacing and/or paving of an existing impervious surface (ex. resurfacing a driveway).
j. Excavation, filling and grading involving less than 100 cubic yards of material and/or new patio and driveway areas less than 100 square feet in size, which meets the following requirements:
   i. The location of the proposed excavation, filling and/or grading is not located within a 100-year floodplain, river corridor, or in an area with rare, threatened, or endangered species as identified by the Vermont Agency of Natural Resources.
   ii. The proposed excavation, filling, and grading action is not located within the setbacks for the applicable zoning district.

SECTION 3.2 Site Plan Review

A. **Applicability and Intent.** The intent of site plan review is to ensure that projects be of high quality, attractive and functional site design, and that overall building and site design be consistent with the purpose and character of the district within which it is located. Standards and condition emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

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Signs; however, signs shall comply with any local sign ordinance.¶
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F. Certificate of Occupancy. All land development that requires a zoning permit shall also be required to receive a Certificate of Occupancy that documents all work has been completed in accordance with the zoning permit. ¶
1. . The Planning Commission acting through its chairperson or a duly authorized delegate may conduct pre-hearing conferences upon due notice and request by an applicant. The purpose of any pre-hearing conference shall be to clarify issues in controversy; identify documents, plans, detailed information that should be submitted as evidence at a hearing; and to circumvent untimely and unnecessary delays that would interfere with an expeditious public hearing process. The results of such conference shall be made in writing, signed by the Chair, and made available to all interested parties to the hearing¶
Existing Farm - Prior to construction of a farm structure, a person shall notify the Zoning Administrator of that intent. And provide a letter of approval from the commissioner of agriculture, food and markets, as required by Section 4413 of the Act, if a variance to the town's zoning bylaws is requested....
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In all districts, no zoning permit shall be issued by the Zoning Administrator for uses requiring site plan review as listed in Table 4.1 until that approval is granted by the Planning Commission.

B. **Application Requirements.** A complete application for site plan review shall include all the information requested on the Fairfield Site Plan Review Application Form, including the application fee, a Letter of Intent for a State Highway Access Permit from VTrans, if applicable, and one full size site plan prepared in a clear and legible manner, drawn/printed to scale, in addition to nine (9) 11x17 reductions and PDF format.

Site plans shall include the information in Table 3.1 below, as applicable.

Table 3.1: Site Plan Requirements:

1	Owner and Preparer Information	• Name and address of the owner of record and adjoining land ownership, including those across public and private roads; • Name and address of person or firm preparing the site plan map.
2	Location, Scale and Date	• Site location map, • Scale of map, including a graphic scale, • North arrow, and • Date of preparation or revision.
3	Features of the Existing Site	• Contours (2 feet), vegetation, and natural features; • Structures, access points, easements, and utilities; • Property and zoning boundaries; • Distance from existing structures to property line.
4	Features on Adjacent Sites	• Structures, access points, culverts, wells, and other features that have potential to impact or be impacted by the proposal including those directly across a public or private road.
5	Proposed Site Improvements	• Structures, including principal structure elevations; • Parking areas, access points, loading docks and service areas, and outside storage areas; • Sidewalks and other walkways; • Utilities, stormwater management and lighting; • Landscaping and screening; • Areas of excavation, filling, and grading; • Distance from proposed structures to property line.
6	Landscaping Details	• Detailed specifications of the planting and landscaping materials to be used.
7	Construction Sequence and Timing Schedule	• Construction sequence and timing schedule for completion of buildings, parking spaces, landscaped areas and other site improvements, including any phasing schedule.
8	Traffic Generation	• Estimate of daily and peak hour traffic generated.
9	Highway Access Permit	• Whenever a proposed site plan involves access to a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under

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Table 3.1: Site Plan Requirements:		
		19 V.S.A. § 1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit. • Whenever a proposed site plan involves a new access, or a change to an existing access, to a Town highway, the application for site plan approval shall include a copy of the approved local highway access permit.
10	Other Information	• Any other information or data that the Planning Commission may reasonably require.

The applicant may apply in writing to the Planning Commission to waive application submission requirements that do not apply to a specific project. The Planning Commission may grant such a waiver only if in its judgment of the special circumstances of a particular site plan, the subject materials or information are not applicable to the project and not required to determine compliance with these regulations.

C. **Public Notice and Issuance Requirements**. Once the application is deemed complete by the Zoning Administrator, the Planning Commission shall hold a public hearing before issuing a decision on whether the proposed land development shall receive site plan approval. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5, and 2.6 apply.

D. **Site Plan Review Standards.** When reviewing and deciding on a site plan, the Planning Commission may impose appropriate safeguards, modifications, and conditions relative to Article 5 - General Regulations and Article 8 - Planning and Design Standards. The Planning Commission shall give specific consideration to the following standards:

1. Adequacy of parking and loading facilities (Section 5.8)
2. Traffic access and circulation (Section 5.5).
3. Pedestrian and bicycle access requirements (Section 8.3).
4. Adequacy of landscaping and screening (Section 8.2).
5. Outdoor lighting (Section 5.7).
6. Size, location and design of signs (Section 5.10).
7. Adequate stormwater management and erosion control measures (Section 8.5).
8. Performance Standards (Section 5.9).

E. **District and Specific Use Standards.** In addition to the site plan standards above, a proposal must meet the district dimensional standards identified in Article 4 – Zoning District and District Regulations, Article 5 – General Regulations and, as applicable, the specific use standards under Article 6 of these regulations.

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SECTION 3.3 Conditional Use Review

A. **Applicability and Intent.** The intent of conditional use review is to ensure compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large 24 V.S.A §4414 (3). Standards and conditions emphasize those considerations in which off-site impacts of a proposed project can be identified, avoided and/or mitigated.

In all districts, no zoning permit shall be issued by the Zoning Administrator for uses requiring conditional use review as listed in Table 4.1 until that approval is granted by the Board of Adjustment.

B. **Application Requirements.** A complete application for conditional use review shall include all the information requested on the Fairfield Conditional Use Application form, including a written description of how the proposal meets the review standards in Section 3.3(D), a Letter of Intent for a State Highway Access Permit from VTrans, if applicable, and the application fee.

C. **Public Notice and Issuance Requirements.** The Board of Adjustment shall hold a public hearing before issuing a decision on whether the proposed land development shall receive conditional use approval. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5, and 2.6 apply.

D. **Conditional Use Review Standards.** The Board of Adjustment may grant conditional use approval if the Board determines that the proposed use will conform to all specific standards and provisions contained in these regulations. In addition, the proposed conditional use shall not result in an undue adverse effect on any of the following:

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1. **The Capacity of Existing or Planned Community Facilities.** The Board of Adjustment shall consider the demand for community services and facilities resulting from the proposed development and determine whether that demand will exceed the existing or planned capacity of existing facilities or services. In making such a determination, the Board of Adjustment will consider Fairfield's capital program or budget in effect at the time of application.

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2. **The Character of the Neighborhood Area or District Affected.** The Board of Adjustment shall consider the location, scale, type, density, and intensity of the proposed development in relation to the character of the area likely to be affected by the proposed development, as defined by the purpose(s) of the zoning district(s) within which the project is located and specifically stated polices and standards of the Fairfield Town Plan.

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3. **Traffic on Roads and Highways in the Vicinity.** The Board of Adjustment shall consider the projected impact of traffic and patterns of access resulting from the proposed development on the capacity, safety, efficiency and use of affected roads, bridges, and intersections. A traffic impact study may be required.

4. **Conformance with Applicable General Regulations, Development Standards and Specific Use Standards in Articles 5, 6, and 8.**

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5. **The Utilization of Renewable Energy Resources.** The Board of Adjustment shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including the existing and future availability of and access to such resources on adjoining properties.

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6. **Other Town Bylaws in Effect.** No development shall be approved in violation of existing bylaws and ordinances in effect.

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E. **District Standards**. In addition to the site plan standards above, a proposal must meet the district dimensional standards identified in Article 4 – Zoning District and District Regulations.

Figure 3.2 - Determining Undue Adverse Effect

The following test shall be used by the Planning Commission and Board of Adjustment when the bylaw requires the Planning Commission and/or the Board of Adjustment to determine whether or not an undue adverse effect is being created.

1. First, the Planning Commission and/or the Board of Adjustment shall determine if a proposed project will have an adverse effect upon the resource, issue and/or facility in question. The Planning Commission and/or the Board of Adjustment shall determine such by responding to the following question:

   a) Will the project have an unfavorable impact upon the resource, issue and/or facility in question?

2. If it is determined by the Planning Commission and/or the Board of Adjustment that an adverse effect will be being created by a project, the Planning Commission and/or the Board of Adjustment shall then determine if the adverse effect is "undue." To determine whether or not an adverse effect is undue, the Planning Commission and/or the Board of Adjustment shall respond to the following two questions:

   a) Will the project conflict with a clear, written standard in these regulations or the Municipal Plan applicable to the resource, issue or facility in question?

   b) Can the unfavorable impact be avoided through site or design modifications, or mitigation, or other conditions of approval?

The Planning Commission and/or the Board of Adjustment shall conclude that adverse effect is "undue" if the answer to 2(a) is **YES** OR the answer to 2(b) is **NO.**

SECTION 3.4 Variance Review

A. **Applicability.** Requests for variances from the provisions of these regulations may be submitted for structures (but not for uses) and shall be considered as prescribed in 24 V.S.A § 4469. A variance to allow a use that is prohibited according to Table 4.1 or to modify any of the general or specific standards applying to land uses shall not be considered.

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B. **Application Requirements.** A complete application for a variance shall include all the information requested on the application form, including the application fee. The application shall also include a written description of how the proposal meets the requirements of Section 3.4(D) below.

C. **Public Notice and Issuance Requirements.** Once the application is deemed complete by the Zoning Administrator, the Board of Adjustment shall hold a public hearing before making a determination as to whether the proposed use meets all five variance criteria listed below. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5, and 2.6 shall apply.

D. **Review Standards.** In accordance with 24 V.S.A. §4469, the Board of Adjustment may grant a variance only if all of the following conditions are found to exist and are specified in its written decision:

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1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located; **AND**

2. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property; **AND**

3. Unnecessary hardship has not been created by the appellant; **AND**

4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; **AND**

5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of these regulations.

E. **Conditions.** In making a decision in favor of the applicant for a variance, the Board of Adjustment may attach conditions which are necessary to implement the Act and/or the Town Plan. In no case shall the Board of Adjustment grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.

F. **Renewable Energy Resource Structures**. On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board of Adjustment may grant such variance only if it finds that the relief requested meets all requirements listed in 24 V.S.A. §4469(b) and are specified in its decision.

SECTION 3.5 Planned Unit Development

A. **Intent, Purpose and Applicability.** The purpose of a Planned Unit Development (PUD) is to enable clustering of lots and development, to efficiently use land, to facilitate the adequate and economic

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provision of streets and utilities, and to preserve the natural and scenic qualities of Fairfield. The regulations in this section shall apply to all PUDs.

B. **Application Requirements.** Applications for a PUD shall include:

1. A written explanation of how the PUD meets the intent of these regulations as defined in Section 3.5(A).

2. All application requirements for Final Subdivision Plan/Plat Review outlined in Section 7.2 (Table 7.1).

3. A site plan showing the location and general designs of all structures, open spaces, landscaping, driveways, streets, parking areas, easements and all other physical features.

4. The applicant may request modifications from the dimensional standards required by these regulations in their PUD application. This request shall include a statement setting forth the nature of all proposed modifications of this bylaw. Modifications may be issued by the Planning Commission in accordance with Section 3.5(E).

5. Applications for a PUD that also involves a subdivision shall be reviewed concurrently with the Final Subdivision Plan/Plat Review. The applicant shall also inform the Planning Commission that they will apply for PUD (which may include requests for modifications) during Subdivision Sketch Plan Review if Subdivision Sketch Plan Review is required.

C. **Public Notice and Issuance Requirements**. The Planning Commission shall hold a public hearing before issuing a decision on whether the proposed land development shall receive approval. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5, and 2.6 apply.

D. **Review Standards.** All PUDs shall meet the following standards:

1. **Town Plan.** PUDs shall be in conformance with the Town Plan, and the predominant uses of the site shall not differ substantially from the uses allowed in the district in which the project is located.

2. **"Parent" Parcel Lot Size.** All PUDs shall be sited on a "parent" parcel at least five contiguous acres in size. Development lots may be located on any portion of the "parent" parcel regardless of zoning district in accordance with the standards set forth in these regulations. PUDs are not allowed in the Village District.

3. **Density.** Density may vary within the PUD. However, the overall density of the principal uses and dwelling units shall not exceed the prescribed district density (see Section 4.4).

4. **Setbacks.** The minimum setback requirements for the district in which the project is located shall apply to the periphery of the development unless modified by the Planning Commission.

5. **Lot Layout.**

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<#>1) In accordance with Section 4404 (3) and (12) of the Act, the Planning Commission is permitted to modify this bylaw for either a planned unit development (P.U.D.) or a planned residential development (P.R.D.) simultaneously with the final approval of a subdivision plot. The purpose of this provision is to enable clustering and other innovations, in design and more efficient uses of land, to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of the town.¶
<#>¶
<#>2) . To qualify, a P.U.D. or P.R.D. project shall: ¶
<#>a) Contain at least three contiguous acres;

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b) . Conform to the definitions herein and to the requirements of Section 4404 of the Act.¶
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a. Proposed public and/or private roads shall be kept to a minimum in length. Lots shall be easily accessed from proposed public and/or private roads to decrease the length of future driveways. The Planning Commission may require that adjacent lots within the PUD be accessed by a shared driveway as a condition of approval.

b. The standards in Section 7.8(E) through Section 7.8(H) shall apply to PUDs.

c. PUDs shall be designed to minimize the length sewer lines, water lines, and utility lines.

6. **Planning and Design Standards.** PUDs shall be subject to the review standards under Article 8 of these regulations.

7. **Uses.** Land uses within a PUD shall be the same as those land uses that are permitted, conditional, or prohibited by district as shown in Table 4.1.

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8. **Conserved Lot.** All PUDs shall contain a "conserved lot" which shall include at least 60% of the "parent" parcel. Road right-of-way (public or private) shall not count toward the conserved lot acreage.

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a. **Legal Requirements for the Conserved Lot.** A conserved lot shall only be used for agricultural, forestry, and/or recreational uses. The future use of the conserved lot shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. A note shall also be added to the subdivision plat indicating the existence of the deed restriction (if applicable). The conserved lot may be owned and managed through the following means:

i. Held in single fee-simple ownership by a private individual, a land trust or similar conservation-oriented non-profit organization, or a governmental entity, such as the Town of Fairfield (if authorized by the Selectboard).

ii. Held in common ownership by a homeowners' association provided the conserved lot is subject to a covenant or deed restriction addressing use and maintenance of the conserved lot.

iii. In addition to the outlined types of ownership, the applicant many propose that the conserved lot be protected by a permanent conservation easement held by a land trust or similar conservation-oriented non-profit organization (with legal authority to accept such easements), or a permanent conservation easement provided to a governmental entity (such as the Town of Fairfield). If the easement is provided to a land trust or similar organization, the applicant shall provide documentation that the organization is organized to be in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions.

b. There shall only be one conserved lot per PUD.

c. A conserved lot shall be located next to other conserved lots on adjacent lands, if they exist, to provide a contiguous connection between conserved lots created through a separate PUD or any other means.

Deleted: Where the clustering of uses in a project will result in open or undeveloped space on the tract, the Planning Commission shall condition approval of the project upon the establishment of an open space easement, conservation restriction, or similar instrument for such portion of the tract. Such instrument shall be legally enforceable by the Town and shall run with the land at least until a future amendment of the zoning district density may provide for additional development of the tract. Further, the Planning Commission may impose conditions as to the ownership, uses and maintenance of such open space as it deems appropriate for the nature of the project and the land to meet the purposes of these by-laws, the Town Plan and the Act.

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d. Structures to be built on a conserved lot shall only be used to support agricultural, forestry, and/or recreational uses on the lot. The total size of all structures on a conserved lot shall not exceed 1000 square feet.

e. Water and wastewater infrastructure (wells, septic, leach field, etc.) serving the lots within the PUD may be located on the conserved lot provided that the infrastructure does not occupy more than 20% of the land on the conserved lot and provided that the applicant can demonstrate, to the satisfaction of the Planning Commission, that the infrastructure will not disrupt or detract from the intended use of the conserved lot.

E. **Modifications and Waivers.** In accordance with 24 V.S.A. §4414(8), the Planning Commission is permitted to modify these regulations upon submittal of a written request accompanying a Planned Unit Development (PUD) application. The purpose of this provision is to enable clustering and other innovations, in design and more efficient uses of land, to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of the town. The Planning Commission shall keep a record of all modifications of this bylaw granted and each modification shall be directly included in the final PUD decision. All other provisions of these regulations not specifically modified shall remain in force and be applicable to the project. Dimensional requirements for a conserved lot within a PUD cannot be modified or waived. All modification requests within a PUD shall be made in accordance with the following standards:

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1. **Lot Size.** The Planning Commission may modify the minimum lot size requirement to allow for lots not less than ¼ acre in size.

2. **Setbacks.** The Planning Commission may modify the minimum front, side, and rear setback requirements for structures to not less than 5 feet. The Planning Commission shall not modify the minimum setback requirement for rivers and streams.

3. **Height.** The Planning Commission may only modify the maximum height requirement in conformance with Section 5.3(D).

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Article 4 – Zoning Districts and District Regulations

SECTION 4.1 Establishment and Interpretation of Zoning Districts

A. **Zoning District.** To implement the provisions of these regulations, the Town of Fairfield is divided into the following zoning districts:

1. Village District
2. Agricultural District
3. Pond and Swamp District
4. Upland District

The Town of Fairfield also includes two overlay zoning districts:

1. Chester A. Arthur Historic Overlay District
2. Flood Hazard Area Overlay District

These zoning districts are described in Section 4.3 below and are shown on the Official Zoning Map.

SECTION 4.2 Interpretation of Zoning District Boundaries

1. The Official Zoning Map, located in the Town Clerk's Office, shall be affixed with the signature of the Planning Commission Chair and shall be the final authority as to the zoning status of any lands or waters in the Town. The Official Zoning Map is declared to be part of these bylaws and may only be altered by adoption of an amendment in accordance with 24 V.S.A. §4441 and §4442.

2. Where uncertainty exists on the boundaries of zoning districts shown on the Official Zoning Map, the following rules shall apply:

   1. Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.

   2. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

   3. Boundaries indicated as parallel to, or as extensions of, features in 1 or 2 above shall be so construed.

3. The Zoning Administrator shall be responsible for determining the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map. Any interpretation of zoning district boundaries by the Zoning Administrator may be appealed to the Board of Adjustment for a declaratory ruling. Where a district boundary divides a lot, which existed at the time of passage of these bylaws, the Board of Adjustment may permit, as a conditional use, the extension of the regulations for either portion of the lot (not to exceed 50 feet beyond the district line) into the remaining portion of the lot.

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d) The project shall be subject to the review considerations and standards under Article III of these by-laws.¶
¶
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Updates and Expiration of Permit Allocation System. Upon receipt of the 2000 U.S. Census of Population and Housing, and/or in association with the update of the Fairfield Town Plan or Capital Program, the Planning Commission shall review the demographics of the Town of Fairfield in relation to the region, land subdivision and fiscal trends; and present, as appropriate, findings and proposed changes to and/or extensions of this allocation schedule to be adopted as an amendment to this bylaw. In the event that the allocation schedule is not extended through a bylaw amendment prior to December 31, 2015, the provisions of Section 3.1(E) shall expire in their entirety.¶
¶
Exemptions from Permit Allocation System. All zoning permits issued for new residential development shall be counted against available allocations, except for the following categories of dwelling units, which are specifically exempted from the provisions of Section 3.2€:¶
¶
Accessory apartments as defined under Section 3.4(Q);¶
Agricultural housing as defined under Section 3.4€;¶
Elderly housing as defined under Article 10;¶
Seasonal dwellings as defined under Article 10;¶
Affordable housing as defined under Article 10, proving the total number of zoning permits issued for affordable housing units in any year does not exceed the equivalent (...

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SECTION 4.3 Zoning District Purpose

A. **Village District.** The purpose of the Village District is to support the role of the villages of Fairfield and East Fairfield in social and economic activities in the community and to provide for residential, commercial and other compatible development that serves the needs of the Town. Such development should occur with densities and uses which will maintain the traditional, social and physical character of the villages, including their historic and scenic resources, and which will not exceed the capability of the lands, waters, services, and the facilities to absorb such densities.

B. **Agricultural District**. The purpose of this district is to provide for and protect agricultural, forestry and compatible residential, commercial, and recreational uses in accordance with the Town Plan. Development densities shall be kept within the physical capabilities of the land and the availability of planned community facilities and services. Development methods to preserve the rural character and protect the agricultural resources of these areas shall be utilized.

C. **Fairfield Swamp District.** The purpose of this district is to protect Fairfield Swamp. Development in this district must be carefully controlled to protect water quality, scenic beauty, and related natural resources. Due to the presence of natural resources and the cost of providing public services to this district, only limited, low-density land development will be permitted.

D. **Pond District.** The purpose of this district is to carefully control land development in proximity to Fairfield Pond to protect water quality and scenic beauty. Fairfield Pond is a resource used by people for fishing, swimming, and boating. Land adjacent to Fairfield Pond are used for agricultural and low-density residential land uses. No land development shall be allowed in this district which degrades the pond's quality. Only limited commercial development shall be permitted in order to protect the natural environment.

E. **Uplands District**. The southeast corner of Fairfield is characterized by a series of upland ridges and is presently the least settled part of town. The soils in this district tend to be most severely restrictive for all types of land development. The purpose of this district is to provide for the conservation of existing wildlife habitat and scenic resources while allowing for limited, low density residential and outdoor recreational uses.

F. **Chester A. Arthur Historical Overlay District.** The Chester A. Arthur Historic Overlay District is an important part of the legacy of Fairfield. The Overlay District includes the entire length of Chester A. Arthur Road and a 1000 foot area on either side of the road. This district contains several historic structures. Efforts should be made to encourage appropriate building styles within the Overlay District. Landscaping and screening of future land development with trees and shrubs shall be required to maintain the pleasant appearance of this route which is traveled by many tourist visitors to our town.

G. **Flood Hazard Area Overlay District.** The purpose of this district is to prevent flooding in flood hazard areas and River Corridors, to minimize future public and private losses due to floods, and to promote the public health, safety and general welfare. Designation of this district is also required for continued town eligibility in the National Flood Insurance Program.

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A) INTERPRETATION OF ZONING DISTRICT BOUNDARIES¶

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SECTION 4.4 Zoning District Uses and Dimensional Standards

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<#>CHESTER A. ARTHUR HISTORICAL DISTRICT & SCENIC ROAD ¶
<#>ALLOWABLE USES & STANDARDS ...

A. **Types of Land Uses and Land Use Standards.** Table 4.1 establishes the review standards for each type of land use in each district. Within each district land uses are designated as:

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- permitted (P);
- permitted with site plan review (P/S);
- conditionally permitted (C);
- conditionally permitted with site plan review (C/S);
- exempt (E); or
- prohibited (X).

1. **Permitted Uses**. Permitted uses are marked in Table 4.1 by the letter 'P' or 'P/S'. In districts where they are allowed, permitted uses require a zoning permit and may be approved by the Zoning Administrator subject to the zoning permit standards in Article 3. Permitted uses may also require site plan review by the Planning Commission.

2. **Conditional Uses**. Conditional uses are marked in Table 4.1 by the letter 'C' or 'C/S'. Conditional uses require approval by the Board of Adjustment according to the conditional use provisions in Section 3.3 as a prerequisite to the Zoning Administrator issuing a zoning permit. Conditional uses may also require site plan review by the Planning Commission.

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3. **Prohibited Uses**. Where a use listed in Table 4.1 is not designated as permitted, conditional or exempt in a zoning district (when the cell is marked with a X), such use is prohibited and shall not be allowed in that zoning district.

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4. **Exempt Uses**. Exempt uses are shown in Table 4.1. These uses are exempt and do not require a zoning permit. See the state and local exemptions listed in Section 3.1.

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5. **Uses Not Identified**. Uses not specifically listed as permitted or conditional uses in Table 4.1 shall be prohibited unless such use is approved by the Board of Adjustment as a conditional use according to Section 3.3 and the standards and procedures below;

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   a. The Board of Adjustment must find that the use is of the same general character as one or more uses permitted or allowed as conditional uses in the zoning district in which the use is proposed. The burden of proof to show that the proposed use is of the same general character as allowed uses in the area shall be on the applicant.

   b. The Board of Adjustment will determine the minimum lot size, setbacks, lot frontage and other requirements for the use based on the zoning district regulations and specific use standards for similar uses. In no case will the minimum lot size, setback or frontage be less than the minimum otherwise required in the district.

   c. The Planning Commission shall be given 15 days' notice of the conditional use public hearing and may submit written or oral recommendations to the Board of Adjustment relative to the acceptability of the proposed use.

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B. **Density.** The maximum allowed number of lots or dwelling units allowed on a parcel is calculated by dividing the total land area by the minimum lot size for the district. Any fractional numbers resulting from the density calculation shall be rounded to the nearest whole number. There shall be no maximum density requirement for dwelling units in the Village District.

Table 4.1 – Dimensional Standards and Uses				
Dimensional Standards by Zoning District				
	Village District	**Agriculture District**	**Fairfield Pond & Swamp District**	**Uplands District**
Minimum Lot Size	1/4 acre	1 acre	2 acres	1 acre
Maximum Lot Size	2 1/2 acres[3]	N/A	N/A	N/A
Minimum Frontage	60 feet	200 feet	200 feet	200 feet
Minimum Front (Road) Setback	45 feet on VT Route 36, North Road, and South road. 35 feet all other roads.	50 feet	35 feet	50 feet
Minimum Side/Rear Setback	5 feet	20 feet	20 feet	None
Maximum Structure Height	35 feet	35 feet	35 feet	35 feet
Uses by Zoning District				
	Village District	**Agriculture District**	**Fairfield Pond & Swamp District**	**Uplands District**
Residential Uses				
Agricultural Housing (Section 6.3)	C	C	C	C
Single Household Dwelling	P	P	C	P
Two Household Dwelling	P	C	C	X
Multi-Household Dwelling (Section 6.5)	C/S	X	X	X
Seasonal Dwelling (Section 6.14)	X	P	C	P
Primitive Camp	X	P	C	P
Elderly Housing (Section 6.5)	C/S	X	X	X
Mobile Home Park (Section 6.11)	X	C/S	X	X
Rooming House	P/S	P/S	X	X
Commercial and Industrial Uses				
Bed and Breakfast	P/S	C/S	C/S	X
Business Services	P/S	X	X	X
Campgrounds (Section 6.4)	X	X	X	C/S
Child Care Home	P[1]	P[1]	P[1]	P[1]

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Commercial and Industrial Uses				
Child Care Facility	P/S	P/S	P/S	P/S
Club	P/S	X	X	X
Commercial Indoor Recreation Facility	P/S	X	X	X
Commercial Outdoor Recreation Facility	P/S	C/S	C/S	C/S
Earth Resource Extraction (Section 6.6)	X	C/S	X	C/S
Gas Station (Section 6.7)	P/S	X	X	X
Industrial (Section 6.9)	C/S	X	X	X
Kennel	X	C/S	X	X
Lodging Establishment	P/S	X	X	X
Mixed Use	C	C	C	C
Motor Vehicle and Equipment Sales and Service	C/S	X	X	X
Restaurant	P/S	C/S	X	X
Retail Sales	P/S	X	X	X
Salvage Yard (Section 6.13)	X	C/S	X	X
Other Uses				
Public Facility (Section 6.12)	P/S	P/S	P/S	P/S
State Licensed or Registered Residential Care Home serving 8 or fewer persons with a handicap or disability	P[2]	P[2]	P[2]	P[2]
Telecommunication Facility (Section 6.15)	C/S	X	C/S	C/S
Exempt Uses in All Districts				
Agriculture	E	E	E	E
Forestry	E	E	E	E
Planned Unit Development (PUD)				
Planned Unit Development (Section 3.5)	Not allowed	Allowed	Allowed	Allowed
Footnotes				
[1]Child care homes are considered permitted single household uses of property. As long as a valid zoning permit is in place for a single household dwelling, no additional permit or approval is required. Note: Any structural alterations or other land development associated with these uses that are not exempt shall require a zoning permit.				
[2]A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property. As long as a valid permit is in place for a single household dwelling, no additional permit or approval is required. Note: Any structural alterations or other land development associated with these uses that are not exempt shall require a zoning permit.				
[3]Maximum lot size requirement does not apply to the "parent" parcel.				

Deleted: No structure shall exceed 35 feet in height above the average ground level unless approved by the Board of Adjustment. The Board may permit structures in excess of 35 feet provided the structure does not constitute a hazard and provided that the portion above 35 feet shall remain unoccupied except for a normal maintenance.

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SECTION 4.5 Village District Standards

A. **Applicability.** The following standards shall apply to all land development in the Village District unless specifically noted.

B. **Land Uses.** In the Village District, more than one principal use may be allowed on any single parcel subject to site plan and conditional use review.

C. **Structures.** All structures in the Village District shall meet the following standards:

1. All new principal structures shall have a square or rectangular building footprint. The length of the structure shall be no longer than more than (3) times its width, or vice versa.

2. More than one principal structure may be allowed on any single parcel subject to site plan and conditional use review.

3. The main entrance of principal structures shall be oriented to a public street by having the entryway located on the façade parallel to the public street with a clearly defined pedestrian connection. When specific circumstances make it impractical for a building to have a public entrance located on the façade parallel to the public street with a clearly defined pedestrian connection, the Planning Commission or Board of Adjustment may approve a principal structure with a side public entrance perpendicular to the public right-of-way as long as the entrance faces and is oriented towards a pedestrian walkway that directly connects to the public right-of-way and sidewalk (see Figure 4.1).

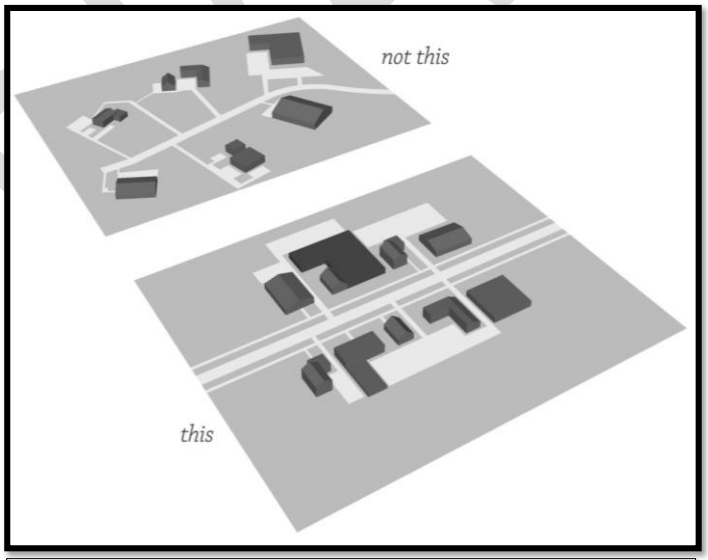

Figure 4.1 – Structure Orientation in Village District

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4. All flat-roofed structures are prohibited.

5. No structures shall have a building footprint larger than 3000 square feet in size. Structures that contain a public facility use (e.g. schools, municipally-owned structures, churches) shall be exempt from this regulation.

D. **Density**. There shall be no maximum density requirement for dwelling units in the Village District. Density shall be determined by the property owner's ability to meet all other applicable development regulations.

E. **Site Design**. Land development in the Village District shall meet the following site design standards:

1. **Accessory Structures.** Detached accessory structures (e.g. sheds, garages) shall be located to the side or rear of principal structures (e.g. single household dwelling).

2. **Access**. Access to all parcels in the Village District shall meet the following standards:

a. **Location.** No driveway shall be located within fifty (50) feet of a road intersection. The Board of Adjustment may reduce this standard through approving a waiver/modification application for driveways located in the Village Zoning Districts provided there is no undue adverse impact on public safety. Where a site occupies a corner of two (2) intersecting roads, the driveway access shall be located on the less traveled road. All driveways access in the Village District are exempt from the setback standards.

b. **Shared Access.** The Planning Commission and Board of Adjustment may require shared driveways between adjoining properties in appropriate instances, including the presence of compatible adjacent uses or areas characterized by congestion and frequent and/or unsafe turning movements.

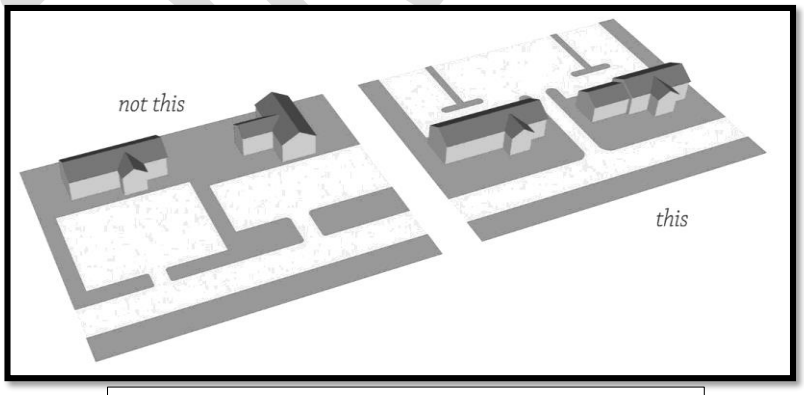

Figure 4.2 – Off-street Parking Lot Design

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3. **Parking**. All parking in the Village District shall meet the following standards:

   a. **Off Street Parking**. Off-street parking shall be located to the side and rear of principal structures. All off-street parking shall be properly lit and meet the standards in Section 5.7. Single Household Dwelling and Two Household Dwelling uses are exempt from this standard (See Figure 4.2)
   b. **On-Street Parking**. On-street parking may be used by the property owner to meet minimum parking standards established in these regulations (see Section 5.8). All on-street parking on town highways in Fairfield shall meet Town of Fairfield Road and Bridge Standards and any other applicable municipal standards. All on-street parking on state highways is subject to Vermont Agency of Transportation approval.
   c. **Shared Parking.** Shared parking allows a reduction in the total number of parking spaces required for certain land uses in cases where a mix of adjacent land uses have varying peak periods of parking demand (see Section 5.8). The Planning Commission may approve shared parking if the following standards are met:
      i. **Location.** A use for which an application is made for shared parking shall be located within 400 feet of the subject parking lot.
      ii. **Legal Agreement**. A written legal agreement between the owners of each establishment making use of the shared parking is required. This written agreement shall guarantee access to, use of, and management of designated shared parking spaces. Shared parking privileges shall continue in effect only as long as the agreement, binding on all parties, remains in force. If any shared parking agreement is no longer in force, parking shall be provided as otherwise required by these Regulations. A draft of the written agreement shall be provided Planning Commission or Board of Adjustment upon application.
      iii. **Similar Operating Hours.** The Planning Commission or Board of Adjustment may approve a shared parking arrangement between two or more uses that have similar operating hours. Such share parking arrangements shall not allow for more than a 20 percent reduction in the total required number of parking spaces per Section 5.8.
      iv. **Different Operating Hours**. The Planning Commission or Board of Adjustment may approve a shared parking arrangement between two or more uses that have different operating hours. Such shared parking arrangements shall not allow for more than a 75 percent reduction in the total required number of parking spaces per Section 5.8. The applicant shall demonstrate that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.

4. **Pedestrian Accessibility.** Upon application for land development on any parcel in the Village District subject to Planning Commission or Board of Adjustment approval (e.g. site plan, conditional use, subdivision, etc.), the applicant shall be required to meet the following standards:

   a. **Sidewalks and Multi-Use Pathway.** Sidewalks, or multi-use pathways, shall be required by the Planning Commission and Board of Adjustment along all public and private roads within the Village Zoning District subject to the following requirements:

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i. Sidewalks and multi-use pathways shall be constructed to standards established by the Vermont Pedestrian and Bicycle Facility Planning and Design Manual.

ii. In order to facilitate pedestrian access from public and private roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width may also be required by the Planning Commission and Board of Adjustment for the purpose of pedestrian accessibility and future sidewalk/multi-use pathway construction.

iii. The requirement to install sidewalks or a multi-use pathway may be waived, upon applicant request, only under the following conditions:

I. The subject property is located greater than 1000 feet from an existing sidewalk or multi-use pathway (including the Lamoille Valley Rail Trail), as measured from the closest point between the subject property and existing sidewalk/multiuse pathway.

Any waiver issued shall only apply to sidewalk or multi-use pathway installation. If a waiver is issued, the PC and ZBA shall require a perpetual, unobstructed easement along the existing right-of-way, at least twenty (20) feet in width, for the purpose of pedestrian accessibility and future sidewalk construction.

b. **Accessibility Within Subject Parcel.** The applicant shall be required to install a direct link via sidewalk between at least one public entrance to the principal structure and off-street parking located on the subject parcel. The applicant shall also be required to install sidewalk to connect to any sidewalk located along the subject parcel's frontage with a public road.

5. **Landscaping and Screening.** Upon application for land development on any parcel in the Village District with a land use subject to Planning Commission or Board of Adjustment approval (e.g. site plan, conditional use, subdivision, etc.), the applicant shall be required to meet the standards in Section 8.2 and the following standards:

a. **Site Landscaping and Screening.** Landscaping and/or screening shall be used to separate any type of land use from an existing single household dwelling use or a two-household dwelling use on an adjacent property. This landscaping may consist of a fence or evergreen landscaping (or combination) to a height of at least six (6) feet above grade level on all sides. Additional landscaping may also be required to ensure that the proposed land development fits the character of the Village District. Additional landscaping may take the form of trees, shrubs, well-kept grasses, and/or ground cover.

b. **Off-street parking.** Off-street parking areas for uses other than single and two-household dwellings shall be required to be landscaped or screened from adjacent land uses.

c. **Street Trees.** Applicants shall be required to install street trees along public and private streets. One street tree shall be planted for approximately every 40 linear feet of frontage. Street trees to be installed should ideally have a high tolerance for road salt, soil compaction and drought. For assistance in selecting street trees, please consult the Vermont Tree Selection Guide from the Vermont Urban & Community Forestry Program (https://vtcommunityforestry.org/sites/default/files/pictures/vttree_guide.pdf).

F. **Roads.** In the Village District, new public and private roads shall comply with the following standards to further a pedestrian friendly network of roads:

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1. **Road Network.** New public and private roads shall generally be laid out in a grid pattern by being either parallel or perpendicular to Vermont Route 36. Intersections with other roads, driveways or other rights-of-way shall create right angles (approximate). The Planning Commission may waive this requirement to accommodate topographic or physical limitations beyond the property owner's control. The modification shall be the minimum necessary to accommodate the limitation.

2. **Road Length.** New public or private road rights-of-way shall not be longer than 1,400 feet before connecting to another public or private road, connecting with a future public or private road according to a town approved master plan or official map, or as an alternative, meeting an adjacent property boundary with the intent of connecting to a new road when such adjacent property is developed. New roads in the Village District designed to be permanent "dead ends" shall be discouraged.

3. **Road Surface.** All newly constructed roads within the Fairfield Village District shall be constructed as outlined above and Section 8.3(B)

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G. **Utilities**. In subdivisions in the Village District, all utility systems, including but not limited to electric, gas, telephone, and cable television, shall be located underground throughout the subdivision, unless a significant topographic hardship is present making underground installation unusually difficult.

SECTION 4.6 Pond and Swamp District Standards

A. **Applicability.** The following standards shall apply to all land development in the Pond and Swamp District.

B. **Conditional Use Review.** Single household dwellings and two household dwellings subject to conditional use review shall be subject only to the standards in Section 3.3 Conditional Use Review, Article 5 General Regulations, and Section 8.3 Road and Pedestrian Access.

SECTION 4.7 Upland District Standards

A. **Applicability.** The followed standards shall apply to all land development in the Uplands District.

B. **Road and Driveway Length.** Development proposals that include new roads and driveways of greater than 800 feet shall require conditional use review under Section 3.3. The Board of Adjustment may impose conditions to ensure there is no undue adverse impact on surface waters, wetlands, significant wildlife habitat, wildlife travel, corridors and productive forestry and agricultural lands. Conditions may include limiting the length of the road or driveway, requiring relocation to other areas of the parcel or limiting the scale of the road or driveway.

SECTION 4.8 Overlay District Standards

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A. **Chester A. Arthur Overlay District.** The following standards shall apply to all land development in the Chester A. Arthur Overlay District.

1. **Front Setback**. A front setback of 70 feet shall apply to all structures in this district.

2. **Landscaping**. All structures shall be screened to ensure they are not visible from Chester A. Arthur Road and shall meet the requirements of Section 8.2 regardless of land use.

B. **Flood Hazard Area Overlay District.** See Article 9 for regulations specific to land development in the Flood Hazard Area Overlay District.

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Article 5 – General Regulations

Deleted: Intent and Applicability – This article will explain the intent of each zoning district. It will further explain which land uses and which structures are permitted, conditional, prohibited, or exempt in each zoning district. This article may also include any regulations that may be specific to a particular zoning district. ¶
Existing Fairfield Regulations to be located here:¶
Section 3.2 Establishment of Zoning Districts & Official Zoning Map¶

SECTION 5.1 Applicability

A. The regulations in Article 5 shall apply to all land development, as defined in Article 10 – Definitions, in all zoning districts. If there is conflict between the regulations in this section and a regulation in another part of this document, the more restrictive regulation shall apply.

SECTION 5.2 Land Uses

A. **Purpose.** The intent of this section is to explain the various terms used to explain "land use" in these regulations.

B. **Preexisting Uses.** Any land use that lawfully existed as of the effected date of these regulations shall be considered a preexisting use. Preexisting uses shall be authorized to continue solely on the basis of the provisions of these regulations.

C. **Types of Land Uses.** The "type" of land use refers to what activity is occurring on the land. Different types of land uses in Fairfield are listed in Table 4.1 and are defined in Article 10. Each type of land use may be considered permitted, conditional, exempt, or prohibited within a zoning district.

D. **Categories of Land Uses.** The type of land use on a lot shall be categorized in one of the following "categories:"

1. **Principal Use.** A land use directly involved with the primary purpose of ownership on a particular lot. There shall be only one principal use per lot except as approved as a Mixed Use (Section 6.11) or as allowed in the Village District.

2. **Accessory Use.** A land use or structure which is incidental and subordinate to the principal use located on the same lot.

3. **Temporary Use.** See Section 5.3 – Temporary Structures.

Deleted: ¶
A) GENERAL PLANNING STANDARDS¶
1) Land to be developed shall be physically suitable for the purpose, with particular regard to the adequacy for on-site sewage disposal. Additional factors of the site to be considered include flood hazard, drainage, slopes, soils and other natural conditions affecting its safe and healthful use.¶
¶
2) . The proposed development shall demonstrate due regard for energy conservation in design, and for the protection of existing trees, scenic points, brooks and water bodies, and other unique, natural and cultural features of the area.¶
¶
3) The development scheme shall be compatible with adjacent uses, and shall provide sufficient open space for the recreation, visual and aural privacy and other domestic needs of the area inhabitants.¶
¶
4) . The proposed development shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads, shall not place an unreasonable burden on the ability of the Town to provide educational or other public facilities and services. Consideration shall include¶
¶
5) The capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development.¶
¶
6) . The proposed development shall be in conformance with the Fairfield Town Plan, Zoning and other By-laws then in effect and with the criteria contained in Title 10 V.S.A., Section 6086.¶
¶
7) The proposed development shall be designed to reduce or mitigate any negative effects to the agricultural landscape.

SECTION 5.3 Structures

A. **Purpose.** The intent of this section is the explain the various terms used to explain "structures" in these regulations.

B. **Preexisting Structures.** Any preexisting structure lawfully existing as of the effective date of these regulations shall be considered a preexisting structure. Preexisting structures shall be authorized to continue solely on the basis of the provisions of these regulations.

Deleted: Temporary permits may be issued by the Administrative Officer for non-conforming uses and non-conforming structures incidental to construction projects, provided that the property owner shall remove the temporary structure or use upon the expiration of the construction project permit.…

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C. **Categories of Structures.**

1. **Principal Structures.** A structure in which is conducted the principal use of the lot. There shall not be more than one principal structure on a lot except as allowed in the Village District.

2. **Accessory Structures.** Accessory structures are structures that are incidental and subordinate to principal structures. Accessory structures shall be located on the same lot as principal structures.

3. **Temporary Structures.** A zoning permit may be issued by the Zoning Administrator for temporary structures, like construction trailers, that are incidental to construction projects. Temporary structures are not required to meet dimensional requirements of the zoning district in which the structure is located. Property owners shall remove the temporary structure after the completion of the associated construction project.

D. **Structure Standards.** The following standards shall apply to all structures:

1. **Dimensional Standards.** All structures must meet the district dimensional requirements (Table 4.1) and all other applicable provisions of these regulations.

   a. **Height.** Building height is measured vertically from the highest point on top of the structure, to the average (of the highest and lowest) finished grade at the foundation or base (Figure 5.1). No structure shall exceed thirty-five (35) feet. However, the Board of Adjustment may allow structures in excess of 35 feet, subject to conditional use review, provided the structure does not constitute a hazard and provided that the portion of the structure above 35 feet remains unoccupied except for a normal maintenance.

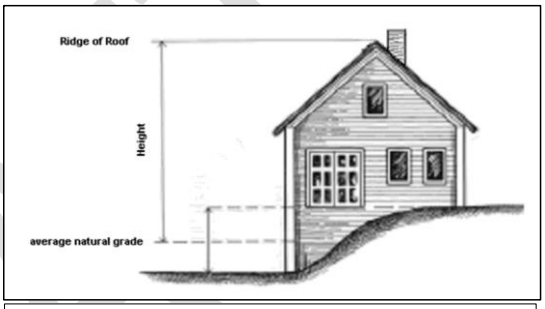

Figure 5.1 – Measuring Height – Building height is measured vertically from the highest point on top of the structure, to the average (of the highest and lowest) finished grade at the foundation or base.

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2. **Foundation.** No principal structure shall be constructed without a permanent foundation and permanent siding. Pole-barn construction shall be regarded as having a permanent foundation.

SECTION 5.4 Abandonment and Restoration

A. **Abandonment.** A land use or structure shall be considered abandoned if it falls into one of the following categories:

1. **Uses.** The cession of a land use on a parcel for a period of five (5) years or more. This standard shall not apply to single household dwelling or two household dwelling uses.

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2. **Structures.** Any structure shall be deemed abandoned when it has not been used for at least two (2) years. Abandoned structures must be either maintained or demolished. There is no time limit on how long a structure may remain abandoned provided it is maintained. Demolition of structures shall be at the property owner's expense.

B. **Restoration.** An abandoned land use or structure may be restored according to the following standards:

Deleted: Within two years after the abandonment of any structure which has been substantially damaged or destroyed by fire or other causes, or if active work on an uncompleted construction project has not occurred in such period, the owner shall either remove all ruins and structural materials and restore the site to a smooth grade, or resume construction or repair of the structure

1. **Uses**. A use which has been abandoned (whether with the intent to resume or not) for a continuous period of five (5) years shall not be resumed without receiving all applicable local approvals. This may include conditional use, site plan and zoning permit approvals. See Section 5.6 for additional standards for restoring non-conforming uses.

2. **Structures**. An abandoned structure that has been maintained may be restored without municipal approval. The owner of an abandoned structure that has damaged, destroyed, or has not been maintained shall within two (2) years perform one of the following two options:

   a. Remove all ruins and structural materials and restore the site to a smooth grade; or

   b. Reconstruct, repair and/or maintain the structure. Reconstruction or repair may require local approval depending on the extent of the proposed reconstruction or repair.

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¶
1) Following the abandonment of any structure or use, as outlined in and subject to the bylaw regulations herein, the owner shall apply for all necessary zoning permits according to these bylaw regulations prior to resuming any prior use or development activities on the property. Abandonment shall be defined as:¶
¶
a) a residential structure destroyed by fire or natural causes that has not been rebuilt within the allowed two (2) year period or one year extension;¶
b) the cessation of use of a residential structure for such purposes for the period of five (5) years or more;¶
c) the cessation of use of a mobile home (not within a mobile home park) or the utilities and/or concrete foundation or pad which serves a mobile home for a period of five (5) years or more; and¶
d) the cessation of a land use on a parcel, including but not limited to land filling and excavation; and commercial, retail and industrial businesses for a period of five (5) years or more….

SECTION 5.5 Access and Driveways

A. **Access to Pre-existing Lots Without Frontage.** Land development may be permitted on lots that do not have frontage either on a public road or public waters only with the approval of the Planning Commission through site plan approval under Section 3.2. Access to such a lot shall be provided by a permanent easement or right-of-way at least twenty (20) feet wide or a Class IV road. In addition to other review criteria, the Planning Commission may consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning or denying the approval.

B. **Driveways.** Driveways may serve up to 3 lots. Driveways shall meet the following standards:

1. **Access Permits.** All driveways accessing onto town highways are subject to the approval of the Fairfield Selectboard, and for state highways, the approval of the Vermont Agency of Transportation. As a condition to access permit approval, compliance with all local ordinances and regulations pertaining to roads and land development is required. Applicants are encouraged to obtain an access permit prior to obtaining a zoning permit.

2. **Construction Standards.** Driveways shall be constructed according to the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways, Town Road and Bridge Standards, in addition to the following standards:

   a. **Minimum Driveway Radius.** All driveways serving residential uses shall have a minimum 20-foot radius. All driveways serving commercial uses shall have a minimum 30-foot radius.
   b. **Minimum Driveway Width.** All driveways shall meet the following minimum width requirements:

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Table 5.1 – Driveway Width	
Driveway Length	**Minimum Driveway Width**
Less than 300 feet	12 feet
300 feet and greater	16 feet

c. **Pulloffs.** Driveways greater than 400 feet in length shall have 20 feet by 20 feet pulloff areas every 300 feet or less. Pulloff areas shall be kept clear of snow and other obstructions.
d. **Turn Around.** There shall be a turn around of 20 feet by 20 feet located at the house end of every driveway to ensure that emergency vehicles can turn around. This regulation shall not apply to driveways in the Village District shorter than 100 feet in length.
e. **Culvert Diameter.** All driveway culverts shall be a minimum of 15 inches in diameter.
f. **Maximum Grade.** The maximum grade for a driveway shall be ten (10) percent on average in any 50-foot section.

3. **Location and Shared Driveways.**
   a. **Location.** Driveways shall be set back 20 feet from side boundary lines or be shared between adjacent parcels for use as a shared driveway. This requirement shall not apply to driveways in the Village District.
   b. **Shared Driveways.** Shared driveways may be constructed to the edge parcels and the shared use rights of such driveways shall be specifically outlined in the deed for each parcel involved. Shared driveways may be required per the standards in Section 4.5 – Village Standards.

4. **Access Management.**
   a. No driveway shall be located within fifty (50) feet of a road intersection. The Planning Commission or Board of Adjustment may modify this standard for driveways located in the Village Zoning District provided there is no undue adverse impact on public safety.
   b. Where a site occupies a corner of two (2) intersecting roads, the driveway access shall be located on the less traveled road.
   c. The Planning Commission or Board of Adjustment may require shared driveways between adjoining properties in appropriate instances, including the presence of compatible adjacent uses or areas characterized by congestion and frequent and/or unsafe turning movements.

SECTION 5.6 Nonconforming Use, Structures, and Lots

A. **Applicability.** The following provisions shall apply to all structures, uses, and lots in lawful existence prior to the effective date of these regulations, or subsequent amendments, which do not conform to the requirements of these regulations. In accordance with the Act, these regulations shall not prevent the normal continuation and maintenance of lots, structures and uses of land that lawfully existed prior to the adoption of these regulations.

B. **Nonconforming Uses.** Subject to conditional use review by the Board of Adjustment, the following may be allowed:

1. Any nonconforming use may be altered or expanded, not exceeding 50% of its footprint size as it existed upon the effective date of these regulations. However, a nonconforming use shall not be

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Deleted: 1) Land development and/or new buildings may be permitted shall be built with strict regard to the safe and efficient flow of traffic in the area, and provide adequate access for emergency vehicles. Road frontage requirements for lots shall be used as the basis for establishing density of development for the overall parcel.¶

Deleted: a) Frontage on a maintained public road (Class III or better), or¶
b) With the approval of the Planning Commission, access by means of a permanent easement or right-of-way at least 20 ft. wide to such a public road. The Planning Commission may require a right-of-way or easement greater than twenty feet in width if, in its judgment, it is necessary to protect the health, safety and general welfare of the Town of Fairfield. Access by public waterways to a residential use is expressly excluded.¶
c) All Rights-of-Ways

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<#>d) All commercial and industrial uses shall have unobstructed visibility of such road 300 feet in either direction from any driveway access.¶
<#>e) All driveways entering onto public roads must meet the Selectmen's specifications for grade, culverts, and ditching. And all culverts require prior approval from the Selectmen.¶
<#>f) Roads will be constructed according to anticipated traffic use. The following shall be considered a guide to road construction:¶
<#>¶
<#>Anticipated Average Daily Traffic Width With Shoulders Sub-Base Depth¶
<#>0–25 3 feet, 14 feet, 3 feet 12inches¶
<#>26–50 3 feet, 20 feet, 3 feet 12 inches¶ ...

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restored or reestablished after being abandoned or discontinued for a period of five (5) years or after being changed to a conforming use.

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2. Any alteration or expansion of a nonconforming use for the sole purpose of compliance with State or Federal law.

C. **Nonconforming Structures.** Subject to conditional use review by the Board of Adjustment, the following may be allowed:

Deleted: <#>b) Any nonconforming structures may be altered or expanded, providing such action does not increase the degree of nonconformance. In the event a nonconforming structure is at least 75% damaged or destroyed by fire, collapse or "Act of God," it may be rebuilt only in compliance with this bylaw. The [AMP] may grant a waiver from this in consideration of remaining features such as foundation, water and sewage systems, underground utilities, etc.¶
<#>c) .

1. Any preexisting structure or part thereof which is not in compliance with regulations concerning setbacks, height, lot size or other dimensions, or which does not meet the parking area requirements, shall be deemed a non-conforming structure.

Deleted: <#>or nonconforming structure

Deleted: <#>environmental, safety, health or energy codes, laws or regulations.

2. Any nonconforming structure may be altered or expanded, providing such action will not increase the aspect or degree of nonconformance. In the event a nonconforming structure is at least 75% damaged or destroyed by fire, collapse or "Act of God," it may be rebuilt only in compliance with these regulations.

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3. Any alteration or expansion of a nonconforming structure for the sole purpose of compliance with State or Federal Law.

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<#>2) . Upon approval of a conditional use permit by the Board of Adjustment, any non-conforming structure may be altered or expanded, providing such action will not increase the aspect or degree of non-compliance.In the event a nonconforming structure is at least 75% damaged or destroyed by fire, collapse or "Act of God," it may be rebuilt only in compliance with this bylaw. The Board of Adjustment may grant a waiver from this in consideration of remaining features such as foundation, water and sewage systems, underground utilities, etc.

D. **Pre-existing Small Lots**. In accordance with 24 V.S.A. §4412, any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of these regulations, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet. If a lot not conforming to the minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

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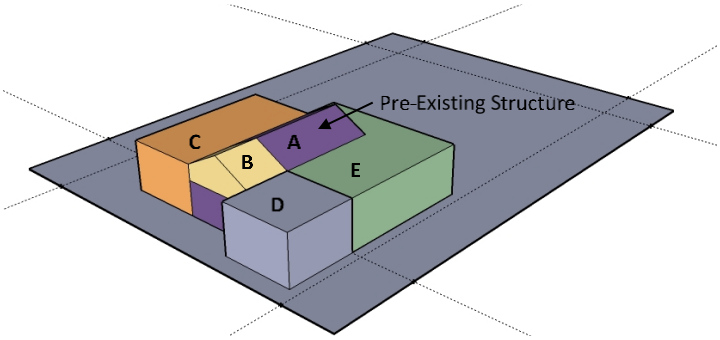
Figure 5.1 – Nonconforming Structures

- *Building 'A' is the original non-conforming structure that encroaches into the setback.*
- *Additions 'B' and 'C' do not increase the degree of non-conformance because they do not further into the setback area than Building A.*
  - *Addition 'B' increases the height of the pre-existing portion of the structure in the setback area.*
  - *Addition 'C' adds new footprint area to the pre-existing structure in the setback area and the new footprint area is higher than the height of the pre-existing portion of the structure in the setback area.*
- *Addition 'D' does increase the degree of non-conformance because it extends farther within the setback area.*
- *Addition 'E' does not increase the degree of non-conformance because it is not within the setback area.*



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1) In accordance with V.S.A. 4412, any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of this bylaw, may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to minimum lot size requirements of the district in which the lot is located, provided such lot is not less than one eighth acre or has a minimum width or depth dimension of at least 40 feet. If a lot not conforming to the minimum lot size requirements in the district in which it is located is or subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot(s) shall not be deemed merged and shall be considered separate lots.

SECTION 5.7 Outdoor Lighting

A. **Applicability and Intent.** The following standards shall apply to land development in the Town of Fairfield. The residents of the Town of Fairfield strongly value the ability to clearly view and enjoy the night sky. It is also recognized that, while some outdoor lighting may be necessary for security and safe operation, inappropriate or poorly designed lighting can create unsafe conditions and a nuisance for adjoining property owners, cause sky glow which obstructs night views of the sky, and results in the unnecessary use of electricity.

B. **General Standards.** The following general standards apply to all outdoor lighting in the Town of Fairfield, with the exception of temporary holiday lighting:

1. All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which the lighting is located.

2. Permanent outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, or public waters, shall minimize glare, and shall not result in excessive lighting levels which are uncharacteristic of the neighborhood. Outdoor

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lighting fixtures shall be designed to direct light downward and located so as not to cast light directly on adjacent roadways or properties. Such fixtures may include recessed, shielded or cutoff fixtures, and/or have low luminance lamps (e.g., 150 watts or 2,000 lumens).

3. The use of timers, dimmers, and/or sensors, wherever practicable, is encouraged on outdoor lighting fixtures to reduce energy consumption and eliminate unneeded lighting.

SECTION 5.8 Parking

A. **Applicability.** The following parking standards shall apply to all land development in the Town of Fairfield.

B. **Standards.** Off-street parking spaces shall be provided in any district whenever any new use is established or when an existing use is enlarged or changed. Parking requirements for uses not listed below will be determined by the Planning Commission or Board of Adjustment during conditional use and/or site plan review.

1. **Minimum Parking Standards.** Each use shall provide off-street parking to meet the below minimum parking standards:

Table 5.1 – Minimum Parking Standards	
Residential Uses	**Minimum Standards**
Single Household Dwellings, Two Household Dwellings, and Seasonal Dwellings	2 per dwelling unit
Multi-Household Dwellings and Elderly Housing Dwellings	1 per dwelling unit plus 2 visitor parking spaces for every 10 units
Commercial, Industrial, and Other Uses	**Minimum Standards**
Business Services	1 per 450 square feet of floor area
Child Care Facility	1 per four children plus 1 per employee
Club	1 per 300 square feet of flood area
Industrial	1 per 900 square feet of floor area
Lodging Establishments	1 per guest room plus 1 per employee on largest shift
Public Facilities	1 per 250 square feet of floor area
Restaurants	1 per 300 square feet of floor area
Retail	1 per 300 square feet of floor area
All other uses and unspecified uses	As required by the Board of Adjustment or Planning Commission

2. **Dimensional Standards.** The applicant shall design off-street parking and loading areas to meet the following standards. These standards shall not apply to single household dwellings and two household dwellings:

a. **Parking Lot Location.** Off-street parking shall not be required to meet the front, side, or rear setback standards.

b. **Parking Spaces.** The applicant must design off-street parking spaces to be at least 9 feet wide by 18 feet deep and accessible from a driveway or access aisle except for stacked spaces within a residential driveway for a single household dwelling or two household dwelling use.

c. **Access Aisles.** The applicant must design access aisles within a parking lot or structure to be not less than 20 feet wide for two-way traffic. As an alternative, the applicant may use one-way aisles serving angled parking spaces which may be not less than 16 feet wide.

d. **Loading Areas.** An application for a use that will regularly receive deliveries or generate shipments by truck shall demonstrate that there will be adequate off-street space for loading and unloading without interfering with parking, vehicular or pedestrian circulation. The Planning Commission and/or Board of Adjustment may require an applicant install a loading area for such land uses.

e. **Snow Removal.** The applicant must store snow cleared from off-street parking and loading areas without obstructing vehicular or pedestrian visibility or circulation to the maximum extent feasible given the physical characteristics of the subject property as follows:

i. The applicant may store snow within a parking area provided that at least 80% of the required parking spaces on the site remain available for use. The applicant must not clear or store snow in a manner that damages required landscaping.

C. **Village District Parking Standards.** All parking in the Village District shall be subject to standards in this section and shall be subject to the village parking standards in Section 4.5.

SECTION 5.9 Performance Standards

A. All land development in the Town of Fairfield shall meet the following performance standards. No land development shall:

1. Emit odors, noise, dust, dirt, noxious smoke or gases or other disturbances which are offensive and uncharacteristic of the area or which cause damage to any home business, vegetation or other property, or which endangers the health, safety or welfare of the neighborhood. Normal agricultural odors and noises shall not be deemed uncharacteristic in Fairfield.

2. Present an unreasonable risk as to fire, explosion, or threat to safety that endangers the public or results in an increased burden upon municipal facilities.

3. Cause sewage or other harmful wastes to be discharged into any watercourse or into any disposal facility beyond its proper capacity.

SECTION 5.10 Signs

A. **Applicability.** The following section shall apply to all signs in the Town of Fairfield on property subject to these regulations.

B. **Exempt Signs.** The following signs are exempt from the standards in this section:

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Deleted: 1) Adequate provision shall be made so that normal vehicular traffic to any use may be parked off the public roads and highways. Spaces shall be provided as follows whenever any new use is established or when the present use is expanded.¶
¶
SPECIFIC USE PARKING REQUIREMENTS¶
Residential and apartments 2 per dwelling unit ¶
Rooming & boarding, and lodging establishments 1 per (rental) lodging unit¶
Professional and business offices 1 per 200 sq. ft of floor space¶
Retail and repair establishments 1 per 250 ft of floor area¶
Restaurants including 1 per employee plus 1 per 4 seats (not including drive-in)¶
Industry 1 per employee on the largest shift¶
Unspecified uses As required by the board of adjustment¶
¶
2) The Board of Adjustment may require additional or shared parking and loading space, if it is found that the above specified standards are not sufficient.

Deleted: 1) The following standards of performance

Deleted: must be met and maintained by uses in all districts. …

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Deleted: hazard to any adjacent property or vehicular traffic….

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d) No building shall be erected or occupied without permanent foundations and permanent siding. Pole-barn construction shall be regarded as having permanent foundations.¶

1. Public highway signs;

2. Non-advertising signs placed for directional or safety purposes (e.g.: "Rest rooms," "Telephone," "Office," "Exit," "Falling Ice," "Fire extinguisher," "No Trespassing," etc.);

3. Temporary auction, not to exceed two in number and not to exceed 15 square feet in combined area. All such temporary signs shall be promptly removed when they have fulfilled their function.

C. **Prohibited Signs.** The following signs are prohibited in the Town of Fairfield:

1. Signs which impair highway safety;

2. Signs which are animated, gaudy, flashing, or intermittently illuminated, and signs painted or placed on rock outcrops or similar natural features;

3. Roof signs, and wall signs, which extend above the roofline;

4. Signs which project over public rights-of-way or property lines.

D. **Sign Standards.** A zoning permit shall be required prior to the erection, construction or replacement of any outdoor sign in the Town of Fairfield. All signs shall meet the following standards:

1. **Dimensional Standards.** All signs shall meet the following dimensional standards in Table 5.2:

Table 5.2 – Sign Dimensional Standards

Use	Maximum Number of Signs/Premises	Maximum Sign Area (cumulative of all signs)	Maximum Height of Free-Standing Signs
Home Occupation	1	4 square feet	6 feet
All other land uses	2	72 square feet	25 feet

a. When computing the maximum sign area for any use:
   i. Existing signs shall be included.
   ii. Signs consisting of free-standing letters, numerals, or other components shall include any intervening space between them.
   iii. Back-to-back signs may be counted as one sign. Only the larger face area of a double-faced or v-type sign shall be used.

2. **Lighting Standards.** Illuminated signs shall be lighted so as not to produce undue adverse glare, hazard or distraction to traffic or adjacent uses of land. Illumination shall be properly focused upon (or from within) the sign itself.

3. **Setbacks.** Signs shall not be required to meet front setback requirements in Article 4. All free-standing signs may be placed at the edge of the highway right-of-way. However, such signs shall not be located within 20 feet of adjacent private property.

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Deleted: <#>except the following, which shall be exempt from this bylaw:¶
<#>a)

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Deleted: Premises

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On premises signs may be permitted as provided below:¶
¶
Premises Max # of Signs/ Premises Max Sign Area Any Sign,¶
All Signs Max Height of¶
Free-Stand Signs¶
Home Occupation 1 4 square feet, 4 square feet 6 feet¶
Business/Industry 2 36 square feet, 72 square feet 25 feet¶
Church, School or other public use 3 24 square feet, 24 square feet 15 feet¶
See Part IV for definition of "Sign Area"¶

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5) Notwithstanding the Section 3.4(C) Setback requirements for structures,

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SECTION 5.11 Storage of Junk and Junk Motor Vehicles

A. In any district, the accumulation of junk (currently unused or non-functioning items) and/or 4 or more junk motor vehicles which are non-operating and non-inspected (vehicles or farm machinery being used in farm operations are exempt from this inspection requirement), shall be stored in an enclosed structure or in an area concealed from public roads.

Deleted: Junkyards are prohibited.

SECTION 5.12 Wastewater and Potable Water Supply

A. All structures and uses that generate wastewater or require access to potable water shall be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and most current edition of the Vermont Wastewater System and Potable Water Supply Rules. Applicants proposing land development that generates wastewater or requires access to potable water must contact the Agency of Natural Resources District Permit Specialist to determine if such a permit it required.

B. If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof of such from the DEC of such to the Zoning Administrator.

C. Where a Wastewater and Potable Water Supply Permit is required:

1. Initiation of construction under a zoning permit issued in accordance with these regulations shall be prohibited unless and until a Wastewater and Potable Water Supply Permit is issued by DEC.

2. It shall be unlawful to use, occupy, or permit the use or occupancy, of any structure requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the Zoning Administrator.

Deleted: 1) Wastewater disposal systems shall be constructed in accordance with the design standards in the current version of the Environmental Protection Regulations, which are hereby adopted by reference and declared to be part of this by-law, and the Fairfield sewer ordinance.¶
¶
2) Applications for wastewater disposal permits shall contain the following information, supplied by the applicant:¶
a) Description and design of the proposed system;¶
b) Results of soil testing (percolation and depth to bedrock or seasonal high groundwater), conducted by a qualified individual, licensed by the State and approved by the Town Board of Health to perform such tests, and,¶
c) Any additional information, which may be required by the Administrative Officer to determine compliance with this Section.¶
¶
3) The town may request a bond or other suitable surety be posted pending satisfactory compliance with all regulations.¶
¶
4) Where State permits are required they shall be obtained prior to issuance of a local permit.¶
¶
5) The Administrative Officer shall not issue a zoning permit where a wastewater disposal permit is required until he or she has approved the system design in accordance with subsection (1) (above). In addition the system, when installed but prior to being covered with earth, shall be inspected to ensure construction in accordance with the approved design. The zoning administrator and health officer and a certified engineer or site technician shall inspect the system within twenty-four (24) hours of notification by the applicant during the normal workweek. Upon approval of the installation, a certificate of occupancy shall be issued.¶
¶
6) A water sample shall be required prior to issuance of permit to establish quality of water prior to occupancy.¶
¶
7) It shall be unlawful to use or occupy any premises for which a wastewater disposal permit is required until a certificate of occupancy is issued by the Administrative Officer stating that the construction of the structure and disposal system conform to this by-law.

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Article 6 – Specific Use Regulations

SECTION 6.1 Applicability

A. The following standards shall apply to the specific uses in all zoning districts in which such uses are allowed (see Table 4.1). Specific uses may be subject to site plan review or conditional use review. If there is conflict between a standard in this section and a standard in another part of these regulations, the more restrictive standard shall apply.

SECTION 6.2 Accessory Dwelling Units

A. An accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling shall be a permitted use. An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:

1. The property has sufficient wastewater capacity;
2. The unit does not exceed forty (40) percent of the total habitable floor area of the single-family dwelling;
3. Applicable setback, coverage and parking requirements specified by the bylaws are met; and
4. The owner occupies either the primary dwelling or accessory dwelling.

SECTION 6.3 Agricultural Housing

A. **Applicability and Purpose.** Agricultural housing intended solely to house farm workers and their families or seasonal/migrant agricultural workers.

B. **Standards.** Up to two additional single household dwellings, not including the farm residence, may be approved subject to conditional use review in all districts, subject to the following requirements:

1. Occupancy is restricted to farm workers and their families.
2. Adequate water supply, septic and off-street parking capacity must exist to accommodate residents.
3. The conditional use decision shall clearly state that the agricultural housing dwelling is necessary to the principal agricultural use of the property and shall be retained in common ownership for this purpose.

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Intent and Applicability – This article will contain regulations that apply to all "land development" in the Town of Fairfield.¶
Existing Fairfield Regulations to be located here:¶
Section 3.3 Pre-Existing Development¶
Section 3.4 Miscellaneous Specific Provisions (in part)¶

Moved down [8]: <#>Industrial Uses . 4 acres 60 feet . 50 feet 200 feet¶

Deleted: <#>1) Every structure shall be set back at least 25 feet from property lines, year-round streams and ponds, and at least 70 feet from the center of the common and public rights-of-way, unless reduced by P.R.D. or district requirements ...

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4. Agricultural housing shall only be occupied, and/or converted for sale or use as a single household dwelling separate from the agricultural use if it meets all current local and state regulations and bylaws applying to single household dwellings, including, density, dimensional and other requirements for the district in which it is located. New permits, subject to the permit allocation system, shall be required prior to sale and/or conversion for non-agricultural residential use.

SECTION 6.4 Campgrounds and Recreational Vehicles

A. **Recreational Vehicles.** Any camping or recreational vehicle used for living quarters and sited so as not to be readily movable shall be deemed a structure and a dwelling unit, and shall be subject to all applicable regulations.

B. **Campgrounds.** All campgrounds shall be subject to the following regulations:

1. Campgrounds shall provide for lavatory, shower and toilet facilities and individual camping vehicle or tent space.

2. A setback of at least 25 feet wide shall be maintained as a landscaped area abutting all campground property lines. No camping vehicle, tent or service building shall be located in this setback area.

3. Roads within the campground shall meet the following minimum standards:

Table 6.1 – Campground Road Standards

	One-way Road	Two-way Roads
Gravel Depth	12 inches	12 inches
Road Width	10 feet	20 feet

4. Every campground operator shall maintain a register, available to any authorized person inspecting the facility or emergency officials. Said register, which shall contain the name and addresses of all campground occupants and dates of occupancy, shall be preserved for a period of at least one year.

SECTION 6.5 Elderly Housing and Multi-Household Dwellings

A. **Applicability.** The standards in this section shall apply to all elderly housing dwellings and all multi-household dwellings uses.

B. **Open Space.** There shall be at least 400 square feet of common open space per dwelling unit or the subject property. Some common open space shall be designed with seating area or other passive recreation facilities to be shared by all residents.

C. **Bulk Storage.** Each dwelling unit shall have a secured, bulk storage area at least 60 square feet in area and not less than 6 feet in any dimension to be used exclusively by residents of that dwelling. The intent of this regulation is to ensure that residents do not store bulk goods on outdoor balconies, patios or other places that are visible from public or residential areas. Such storage may

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2) The permit shall clearly state that this dwelling is necessary to the principal agricultural use of the property and shall be retained in common ownership for this purpose. An necessary agricultural dwelling may only be occupied, and/or converted for sale or use as a single family dwelling separate from the agricultural use if it meets all current local and state regulations and bylaws applying to single family dwellings, including, density, dimensional and other requirements for the district in which it is located. New permits, subject to the permit allocation system, shall be required prior to sale and/or conversion for non-agricultural residential use.¶
¶
3) . Group housing for seasonal or migrant agricultural workers may be approved in all districts to conditional use review and the following requirements:¶
a) Occupancy is restricted to farm workers and their families; and¶
b) . The housing shall be located to minimize adverse impacts to the farming operation, primary agricultural soils, scenic views and open space, and neighboring properties. Landscaping and screening may be required as appropriate.¶
c) Adequate water supply, septic system and off-street parking capacity exist to accommodate residents of the accessory dwelling.¶
d) . Agricultural Housing may be approved as a conditional use only in response to an emergency; the Zoning Board o …

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<#>b) .

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be located within or separate from the residential unit. If such storage is located within private garages, it must be in addition to the area necessary to accommodate minimum parking requirements under these regulations.

D. **Laundry.** Each structure within the development shall provide one functional in-unit washer and one functional dryer in each dwelling unit or provide a common laundry room accessible to and shared by all residents with no fewer than 2 functional washer and dryers for each 10 units.

E. **Pedestrian Access.** Pedestrian access from the public sidewalk or street to ground-level residential entrance(s) on the façade shall be provided.

SECTION 6.6 Excavation and Earth Resource Extraction

A. **Excavation and Land Filling:** Any excavation and land filling operation, not including excavation incidental to or in connection with the construction of a structure or other allowed use, or exempted in Section 3.1, which would cause a substantial change in the rate or direction of drainage shall be allowed only subject to conditional use review under Section 3.3. Existing and proposed grades and the materials to be used shall be considered and appropriate conditions and safeguards may be imposed to minimize any undue adverse effects (see Figure 3.2) on-site or to other properties, with respect to the following:

1. Drainage, runoff, and the potential for erosion and/or siltation;

2. Ground and surface waters;

3. Roads, culverts, bridges and other infrastructure.

B. **Mining and Quarrying:** The removal or extraction of topsoil, rock, sand, gravel or other earth material for commercial purposes may be allowed in designated districts subject to conditional use review under Section 3.3. Approval shall be subject findings that the proposed operation shall not cause any hazard to public health and safety, or undue adverse effects (see Figure 3.2) upon neighboring properties, public facilities and services, and surface and ground water supplies.

1. **Application Requirements**. The application shall include erosion control and site reclamation plans showing existing grades, drainage and depth to water table; the extent and magnitude of the proposed operation including proposed project phasing; and finished grades at the conclusion of the operation.

2. **Standards.** In granting approval, the Planning Commission may consider and impose conditions with respect to the following factors:

a. Depth of excavation or quarrying;
b. Slopes created by removal (Section 5.10 shall not apply to grades created by extraction and quarrying);
c. Effects on surface drainage on and off-site;
d. Storage of equipment and stockpiling of materials on-site;
e. Hours of operation for blasting, trucking, and processing operations;

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f. Effects on neighboring properties due to noise, dust, or vibration;
g. Effects on traffic and road conditions, including potential physical damage to public highways;
h. Creation of nuisances or safety hazards;
i. Temporary and permanent erosion control;
j. Effect on ground and surface water quality, and drinking water supplies;
k. Public safety and general welfare; and
l. Site reclamation.

C. **Surety Requirement:** In accordance with the 24 V.S.A. 4464(b)(2)) a performance bond, escrow account, or other surety acceptable to the Selectboard shall be required to ensure reclamation of the land upon completion of excavation projects, to include any re-grading, re-seeding, re-forestation or other reclamation activities that may be required. Upon any failure of the permit holder, their successors, or assigns to complete site reclamation as required, the town may take legal action as appropriate to ensure site reclamation and cost recovery.

Deleted: 1) Any major land filling or excavation, which would cause a substantial change in the rate or direction of drainage, shall be permitted only upon approval of the Board of Adjustment, after a public hearing. The Board shall consider the existing and proposed grades and the materials to be used; appropriate conditions and safeguards may be imposed to minimize the adverse effects on other properties, such as erosion and siltation.¶

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2) Commercial or industrial extraction of earth resources shall be permitted only upon conditional use approval by the Board of Adjustment. Before approval may be granted, the applicant shall:¶
a) Submit an acceptable plan showing existing and proposed finish grades of the site to demonstrate that the site will be left in a usable condition;¶
b) Agree to cover the finished grades, except exposed ledge rock, with at least 3 inches of top soil and seed with a suitable crop cover upon completion of the operation; and¶
c) Post bond with Town Treasurer sufficient to guarantee such restoration of the site, if required by the Board of Adjustment (see also Section 4407 (8) of the Act).

SECTION 6.7 Gas Stations

A. Gasoline stations may be allowed in designated zoning districts subject to the following regulations:

1. A new gasoline station shall not be located within three hundred (300) feet of any lot occupied by a school.

2. The following dimensional requirements shall apply:

Table 6.2: Gas Station Dimensional Requirements	
Minimum Lot Size	2 acres
Minimum Lot Frontage	200 feet
Minimum Lot Depth	200 feet

3. All parking and pump areas shall be located to the side or in the rear of the principal structures on the lot. Garages, accessory structures, pumps, lubricating and other service equipment shall be set back at least fifty (50) feet from road rights-of-way, and front, side and rear lot lines. All fuel and oil shall be stored at least thirty-five (35) feet from all property lines.

4. All automobile parts and dismantled vehicles shall be stored within an enclosed building or otherwise screened from view.

5. There shall be no more than two (2) access driveways. No access or curb cut shall exceed forty (40) feet in width. All accesses shall be in compliance with Section 5.5.

6. Canopies, if deemed necessary, shall be limited to the minimum area required for adequate pump and apron coverage, and the minimum height required to meet applicable state and federal safety requirements.

7. Outdoor lighting shall meet applicable lighting standards under Section 5.7. Lighting levels on station aprons, under canopies and in associated parking areas shall be the minimum required for intended activities. The lighting of such areas shall not be used for advertising or to attract

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attention to the business. Lights shall not be mounted on the top or sides of canopies; and the sides of canopies (fascia) shall not be illuminated. Light fixtures mounted on canopies shall either be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy; or for indirect lighting, mounted and shielded so that direct illumination is focused exclusively on the underside of the canopy.

8. Gas station siting, design and layout should be compatible with the character of the neighborhood. A landscaped area shall be maintained at least five (5) feet in depth along all road frontage, excluding designated access areas. Additional curbing, landscaping and screening, and pedestrian walkways may be required as appropriate.

SECTION 6.8 Home Occupation and Home Industry

A. **Applicability.** No provision of these regulations shall infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in residential areas and which does not change the character of the area.

B. **Home Occupation**. Home occupations, as distinguished from home industry, are allowed by right as an accessory use for all residential uses, subject to the following provisions:

1. The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal and accessory structures, and shall occupy less than 25% of the entire floor area of such structures.

2. The home occupation shall be carried on by residents of the dwelling unit. No more than one (1) additional employee who is not a resident of the dwelling unit is permitted on site at one time.

3. All business activities or transactions associated with the home occupation shall be carried on entirely within the dwelling unit and/or accessory structures. Outside storage, including the storage of motor vehicles, shall not be allowed.

4. No traffic shall be generated which would be uncharacteristic of the neighborhood.

5. New parking required for the home occupation shall be provided off-street and shall not be located in front yards.

6. No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home occupation.

7. Exterior displays or signs other than those normally allowed in the district shall be prohibited.

C. **Home Industry**. Home industries, as distinguished from home occupations are intended to allow for a small, home-based business and industry while guarding the property rights of neighboring households and are subject to the following provisions:

1. A home industry shall be subject to conditional use review and shall comply with the requirements of Section 3.3.

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2. The home industry shall be carried on within the principal dwelling unit or accessory structures, and shall occupy less than 50% of the combined area of all structures on the lot.

3. The home industry shall be carried on by residents of the principal dwelling unit. No more than three (3) on-premise employees who are not residents of the dwelling unit shall be permitted on site at one time.

4. The home industry shall not necessitate any change in the outside appearance of the dwelling unit other than signs as permitted in Section 5.11.

5. No traffic shall be generated in greater volumes than would be normally expected in the neighborhood.

6. On-site wholesale and/or retail sales shall be limited to products produced or assembled on the premises.

7. New parking required for the home industry shall be provided off-street, and shall not be located in front yards.

8. No objectionable noise, vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home industry.

9. There shall be no on-site storage of hazardous waste or materials unless stored in an approved enclosure; fuel storage shall be limited to that needed for heating, and the operation of equipment and vehicles associated with the business.

10. Exterior storage of materials is prohibited. This standard shall not apply to a home industry that involves auto repair. A home industry that involves auto repair shall be allowed to have up to three (3) customer-owned vehicles located outside of a structure at any one time.

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<#>¶
<#>2) . Home occupations are permitted as an accessory use in all districts where residential uses are permitted subject to the following provisions:¶
<#>a) The home occupation shall be clearly incidental and secondary to the residential use of the property, and shall be conducted wholly within the principal or accessory structures.¶
<#>b) . The home occupation shall be carried on by members of the family residing in the dwelling unit. Two additional employees who are not members of the family are permitted.¶
<#>c) No traffic shall be generated which would be uncharacteristic of the neighborhood.¶
<#>d) . Exterior displays or signs other than those normally permitted in the district, exterior storage of materials, and exterior indications of the home occupation or variation from the residential character of the principal or accessory structures shall be prohibited.

SECTION 6.9 Industrial Uses

A. Industrial uses may be permitted in designated zoning districts subject to the following provisions:

1. Overall building height shall not exceed thirty-five (35) feet. The height of individual attached structural components may exceed thirty-five (35) feet subject to a waiver approval if the structural components are integral to the function of the industrial use. The waiver may be approved as a part of the conditional use or site plan application associated with the property.

2. Landscaping and fencing along property boundaries may be required as appropriate for screening, safety and security.

3. Industrial uses are limited to those manufacturing, fabrication or processing activities which produce no noise, vibration, noxious omissions, air or water pollution, fire or explosion hazard which would endanger or disturb neighboring properties. Such uses must comply with all performance standards under Section 5.9. Additional conditions may be imposed by the as

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appropriate to protect public health, safety, welfare, municipal facilities, services, and other public investments.

4. All aspects of the industrial process shall be carried out within the principal structure. Accessory structures are to be used only for the storage of equipment and materials, or accessory uses such as office space.

5. If industrial uses also include on-site retail sales, or are otherwise open to the public (e.g., tours), the industrial use shall be reviewed as a mixed use. As such it shall be required in addition to meet all zoning provisions pertaining to such retail uses for the district in which it is located. Non-retail uses may be considered accessory uses or mixed use in accordance with these regulations.

SECTION 6.10 Mixed Use

A. In all zoning districts, more than one principal use may be allowed within a single building or in multiple buildings on a single lot (mixed use) subject to conditional use review in accordance with Section 3.3 and the following provisions:

1. Each of the proposed uses is otherwise allowed as a permitted or conditional use in the district in which the mixed use is proposed.

2. The combined uses meet all applicable standards for the district in which the mixed use is proposed, including minimum setbacks and frontage, and minimum lot size (unless such standards are modified as part of a planned unit development).

3. The proposed mixed use meets all applicable general regulations and specific use standards contained in Articles 5 and 6.

4. If one of the uses included in the mixed use requires site plan review the entire property shall require site plan review.

5. This section shall not apply to a lot with a single household dwelling and agricultural housing (Section 6.3).

SECTION 6.11 Mobile Homes and Mobile Home Parks

A. **Mobile Homes.** Pursuant to 24 V.S.A. §4406 (4), a mobile home shall be considered a single household dwelling and shall meet the same zoning requirements applicable to single household dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure under Section 5.3 of these regulations. If an applicant has applied for a Certificate of Occupancy for the installation of a new mobile home or new manufactured home, the applicant shall provide the Zoning Administrator with a copy of a completed HUD Form 309 (as required in 24 C.F.R. 3285 and 3286) before the Certificate of Occupancy is issued.

B. **Mobile Home Park.** In addition, mobile homes may be permitted in a mobile home park subject to the following requirements of this section and other applicable sections of these regulations:

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a) New mobile home parks, and any addition or alteration to an existing mobile home park shall require conditional use approval by the Board of Adjustment.

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1. A mobile home park shall be located on a parcel between 5 acres and 30 acres in size. The maximum density of any mobile home park shall not exceed the density allowed per Section 4.3.

2. A setback of at least 50 feet wide shall be maintained as a landscaped area abutting all mobile home park boundary lines. No mobile home or other structure may be placed in this buffer area. However, the Board of Adjustment may modify or waive this standard to make it possible to preserve a scenic view from the mobile home park, provided that privacy for adjacent property owners can be maintained.

3. The minimum mobile home lot size shall meet the district requirement unless all lots are provided with public or common sewage disposal, in which case the minimum mobile home lot size shall be 50% less than the district minimum lot size.

4. Each mobile home lot whether individual or in a mobile home park shall have at least 50 feet of frontage on a public or private road (regardless of zoning district). All roads within a mobile home park shall be constructed to the meet private road standards (Section 8.3).

5. All electric, telephone and other utility lines shall be installed underground.

6. Each mobile home park shall provide at least 10% of its total size for common open space to be used for recreation.

SECTION 6.12 Public Facilities

A. Pursuant to 24 V.S.A. §4413, public facilities shall be regulated only with respect to location, size, height, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that the applicable regulations do not have the effect of interfering with the intended functional use of:

1. State or community owned and operated institutions and facilities;

2. Public and private schools and other educational institutions certified by the Vermont Department of Education;

3. Churches, other places of worship, convents, and parish houses;

4. Public and private hospitals;

5. Regional solid waste management facilities certified by the state; and

6. Hazardous waste management facilities for which a notice of intent to construct has been received under state law (10 V.S.A. §6606a).

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f) A suitable, non-porous pad at least 4 inches thick shall be provided for each mobile home lot. A minimum setback of 25 feet is required on each mobile home lot.

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SECTION 6.13 Salvage Yards

A. New or expanded commercial salvage yards may be permitted within designated zoning districts subject to review and approval by the Selectboard under separate 24 V.S.A. §§ 2241-2283, conditional use review, site plan review, and the following regulations:

1. A minimum of three (3) contiguous acres shall be required for new salvage yards. No salvage yard shall exceed ten (10) acres in area or extent.

2. Salvage yards shall be set back at least one hundred (100) feet from all property lines, road rights-of-way, surface waters, and wetlands.

3. Salvage yards shall be screened year-round from public view; additional landscaping, fencing or other forms of screening may be required as appropriate.

4. Salvage yards shall be secured as necessary to protect public health, safety, welfare, and neighboring properties.

5. Exterior lighting shall be the minimum required for security and safe operation; general lighting standards under Section 5.6 shall apply.

6. All performance standards under Section 5.9 shall apply.

7. The on-site storage of materials shall not adversely affect surface, ground, or drinking water supplies in the vicinity of the yard.

8. Conditions and limitations may be imposed with regard to traffic generated, hours of operation, and the on-site storage of hazardous materials in order to protect neighboring properties, public infrastructure including roads, and the character of the area in which the yard is located.

9. A site restoration plan shall be required upon application. All materials shall be removed from the site within twelve (12) months of the cessation or abandonment of operations; and the site shall be restored to a safe, usable condition. Site restoration, including the cleanup and disposal of hazardous materials, shall be subject to all applicable state and federal regulations. The Planning Commission and/or Board of Adjustment may require a bond in conformance with Section 2.6 as a condition of approval to ensure proper site restoration.

SECTION 6.14 Seasonal Conversions

A. Seasonal dwelling units may be converted to single household year-round dwelling units subject to the issuance of a zoning permit if the Zoning Administrator determines that the conversion meets the following requirements:

1. The property shall complies with the wastewater and potable water supply requirements in Section 5.12.

Deleted: a) Churches and other places of worship¶
b) . State and community owned and operated institutions and facilities.¶
c) Public and private schools and other educational institutions certified by the Vermont Department of Education.¶
d) . Public and private hospitals.¶
¶
2) The above uses are allowable either individually or under various classifications (essential public services, public uses, etc.) in specified districts and subject to all applicable provisions in this bylaw relating to size, height, bulk, yards, setbacks, density of buildings, off-street parking & loading facilities and landscaping of screening requirements.¶
¶
3) . The following standards may be considered in reviewing public uses:¶
a) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting and landscaping or screening requirements and only to the extent that regulations do not have the effect of interfering with the intended functional use¶
b) . Adequate circulation, parking and loading facilities shall be provided with particular consideration to visibility at intersections, traffic flow and control, pedestrian safety, and access in case of an emergency.¶
c) To protect the privacy of adjoining property owners, additional yard space or setbacks or the use from the property line other than what is already required in the district may be required.¶
d) . The density, size, height or bulk of buildings may be increased or decreased as needed to ensure compatibility with established patterns of land use.

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2. The property complies with the driveway standards (Section 5.5) and is accessible via a public or private road that conforms to the standards in Section 8.3. This requirement may be waived upon the applicant providing a letter from the Fairfield Fire Department stating that the property can be safely accessed by emergency service vehicles.

3. The property complies with off-street parking requirements in Section 5.8. The parking requirement may be satisfied with a deeded parking easement on an adjacent parcel.

SECTION 6.15 Telecommunications Facilities

A. **Applicability.** New or expanded telecommunication facilities that are not subject to 30 V.S.A. §248a, including but not limited to towers and accessory structures, are subject to site plan review and the provisions of this section. In conformance with 24 V.S.A. § 4412(9), the Planning Commission may permit new or expanded telecommunications facilities if the Planning Commission find that the facility will impose not more than a de minimis impact on all applicable standards in these regulations.

1. Wireless telecommunications equipment, if mounted on existing towers, utility poles, silos, steeples or other existing structures, may be permitted by the Zoning Administrator without site plan approval provided that:
   a. No changes are made to the height or appearance of such structure except as required for mounting;
   b. The height of the antenna as mounted does not exceed maximum district height requirements under Article 4 – Zoning Districts and District Regulations;
   c. No panel antenna shall exceed 72 inches in height or 24 inches in width;
   d. No dish antenna shall exceed 3 feet in diameter; and
   e. Any accompanying equipment shall be screened from view.

2. A Certificate of Public Good from the Public Utility Commission under 30 V.S.A. Section 248a preempts these regulations and may be required for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence. The Public Utility Commission determines jurisdiction.

B. **Exemptions.** The following are considered to be de minimis alterations and are specifically exempted from the provisions of this Section and no zoning permit shall be required:

1. Except to the extent these bylaws protect historic landmarks and structures listed on the State or National Register of Historic Places, placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

2. Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.

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3. Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100 feet in height.

4. Antennas subject to the Federal Communications Commission Over-the-Air Reception Devices (OTARD) rule, including
   a. Any "dish" antenna that is one meter (39.37") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite;
   b. Any antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; and,
   c. Any antenna that is designed to receive local television broadcast signals.

   Antennas covered by the OTARD rule may be mounted on masts to reach the height needed to receive or transmit an acceptable quality signal (e.g. maintain line-of-sight contact with the transmitter or view the satellite), so long as the mast is less than 12 feet above the roofline. "Fixed wireless signals" are any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location, such as wireless signals used to provide telephone service or high-speed Internet access to a fixed location.

5. All citizens band radio antennae or antennae operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.

C. **Supplemental Application Requirements.** In addition to the application requirements set forth in Article 4, applications for new towers shall also include the following:

1. A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones.

2. Information regarding the availability of existing towers and buildings located within the service area of the proposed site, including written documentation from other facility owners within the area that no suitable sites for the proposed facility are available at existing facilities.

3. A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

4. Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration.

5. Any additional information needed to determine compliance with the provisions of these regulations.

D. **Construction Standards.** Telecommunications facilities shall conform to the following construction standards:

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1. The facility shall not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.

2. All towers, including antennae, shall be less than 200 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.

3. All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.

4. The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these regulations.

5. The Planning Commission may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Planning Commission, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.

6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the Zoning Administrator showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.

7. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.

8. The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.

9. The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).

10. Unless otherwise approved by the Planning Commission, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Planning Commission for an extension for removal. If the facility is not removed or an extension granted within 2 years of abandonment or cessation of use, the Planning Commission may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.

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11. Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

E. **Additional Site Plan Criteria.** In addition to the site plan review standards in Section 3.2 and the construction standards in (D) above, the Planning Commission shall approve an application for a wireless telecommunications facility when it finds that the application meets the following criteria:

1. New towers shall be sited and designed to minimize their visibility. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.

2. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on-site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.

Deleted: Intent and Applicability – This article will include regulations that only apply to specific types of land uses (ex. gas stations, public facilities, mobile home parks, home occupations). ¶
Existing Fairfield Regulations to be located here:¶
Section 3.4 Miscellaneous Specific Provisions (in part)¶

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Article 7 – Subdivision Review and Regulations

SECTION 7.1 Applicability and Classification

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A. **Applicability.** This Article shall apply to the subdivision of any tract of land into two (2) or more total lots and boundary line adjustments.

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¶
A) APPLICABILITY ¶

Figure 7.1
Subdivision Review Process:
At a Glance

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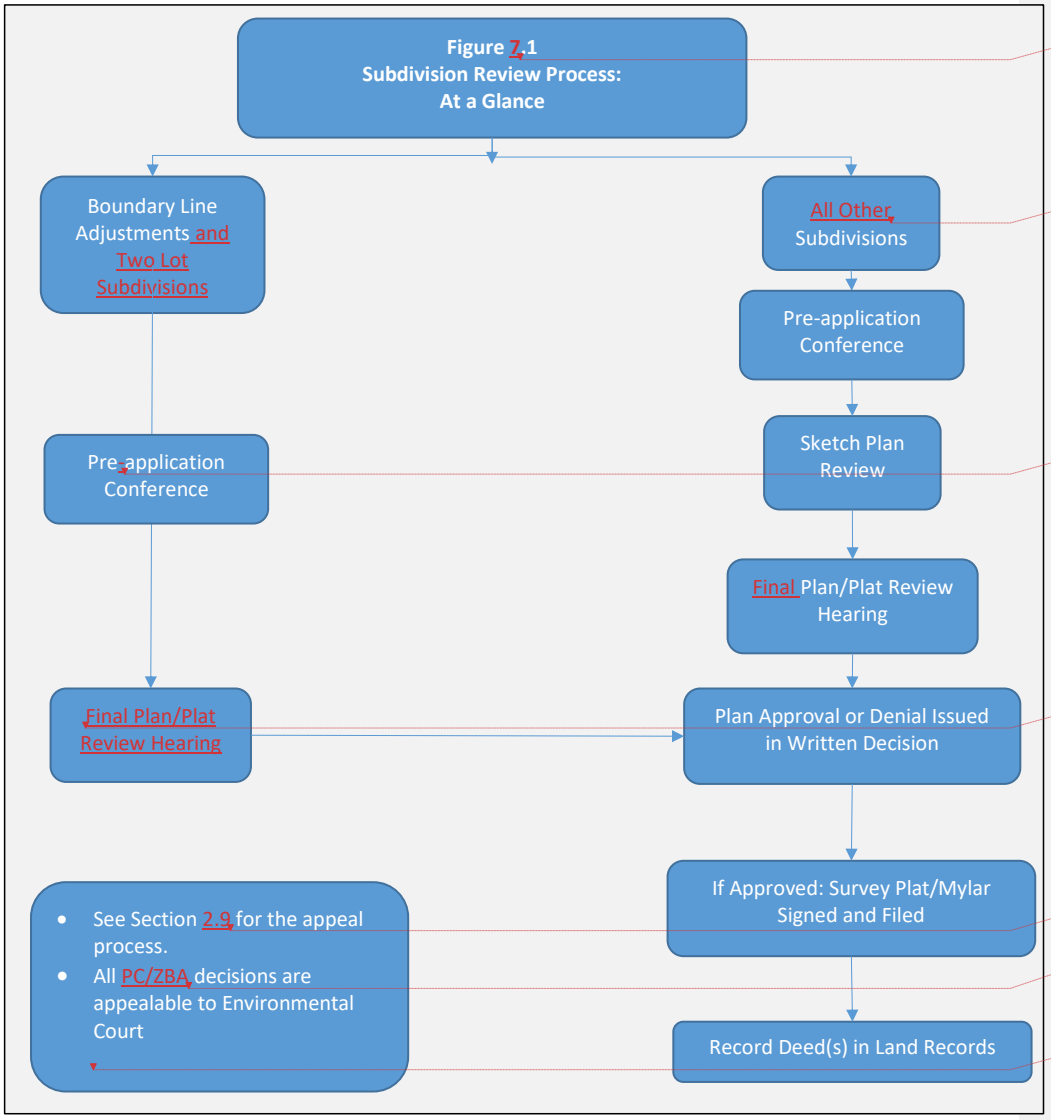

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SECTION 7.2 Subdivision Application Requirements

Deleted: <#>Any land development for residential, commercial, recreational, or industrial purposes that would involve the subdivision of any tract of land into three or more lots for the purpose of development shall be subject to the subdivision regulations herein.¶
<#>¶
<#>Except where a deferral of permit has been issued in cases of the creation of a lot where development rights have been extinguished.¶
<#>¶
<#>Twenty-five percent (25%) of each subdivision of a parcel into eight (8) or more lots must be set aside for affordable housing, according to Section 3.2(P) herein. ¶
<#>¶

A. **Application Submission Requirements**. For all subdivisions (including boundary adjustments), the applicants shall submit the following set of application materials:

1. A completed Fairfield Subdivision Application form;

2. The application fee according to the fee schedule adopted by the Fairfield Select Board; and

3. A set of paper plans that include all the information required in Table 7.1. The information required may be prepared on one (1) or more sheets to make information clear and legible.

B. **Requests for Modifications or Waivers of Application Materials**. Upon written request at Sketch Plan Review for a subdivision, the Planning Commission may waive or modify the application submission requirements required in Table 7.1 in accordance with the following standards:

1. The waived or modified requirement(s) is deemed not applicable due to the special circumstances of a particular plan or plat and is not needed for the Planning Commission to confirm that the subdivision conforms to the requirements of these regulations.

2. The waiver or modification shall not nullify the purpose or intent of the Town Plan or these Regulations or interfere with public health, safety and general welfare. Any application requirements related to the submission of a survey shall not be waived.

3. If an applicant plans to apply for a modification or waiver of a dimensional requirement through a PUD application, the applicant shall provide such information to the Planning Commission in writing during Sketch Plan Review. Modifications or waivers of dimensional requirements may only be granted through the approval of a PUD application.

Table 7.1 Subdivision Application Requirements

	Sketch Plan Review	Final Plan/Plat Review
Submission Requirements		
Application Form (7 copies) and Plans	1- full size (paper, drawn), 7 11x17 copies	2 full size (paper, surveyed), 7 11x17 copies
Application Fee	✓	✓
Modification/Waiver Request, in writing [optional]	✓	
Plan/Plat Mapping Requirements		
Title Block, including the following information: • Name of project, if any and name of Town • Name and address of applicant (landowner and/or subdivider). • Preparer of information/certification and date of preparation/revision	✓	✓

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	Sketch Plan Review	Final Plan/Plat Review
Graphic Scale (minimum 1 inch = 100')	✓	✓
North Arrow	✓	✓
Legend	-	✓
Location Map: A map showing relation of proposed subdivision to adjacent property and surrounding area.	✓ (Approximate)	✓
Area of Land: In square feet or acres for each tract, lot, structure, and large feature.	✓ (Approximate)	✓
Lot Identification: Boundaries for the entire property, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.	✓ (Approximate)	✓
Property Boundary Survey Signed and Stamped by Licensed Land Surveyor: Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original parcel from which lots are subdivided) when: • it is 10 acres or less in size, and/or greater than 50% of the parent parcel will be subdivided into lots.	-	✓ Mylar, signature and stamp required for filing after approval
Contour Lines: Five-foot contour lines of existing and proposed grades.	-	✓
Zoning Information: Including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓ (Approximate)	✓
Natural Features: The location of natural features located on the site, including but not limited to watercourses, wetlands, springs, forest boundaries, fields, large trees, and rock outcroppings. The location of natural features or site elements to be preserved.	✓ (Approximate)	✓
Roads, Circulation and Access Features: Location and names of existing and proposed roads, rights of way, trails, sidewalks and parking areas on site and on adjacent properties.	✓ (Approximate)	✓
Structures: The location of existing and proposed structures and land uses located on the site.	✓ (Approximate)	✓

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	Sketch Plan Review	Final Plan/Plat Review
Utilities, Wastewater/Water Supply and Stormwater Management Infrastructure: Existing and proposed utilities, water and wastewater infrastructure, culverts and stormwater management infrastructure, all associated rights-of-way, easements and proposed connections.	✓ (Approximate)	✓
Open Space/Common Land: Proposed open space common land and/or recreation land within the proposed subdivision.	✓ (Approximate)	✓
Transportation/Pedestrian Access Specifications: Specifications and details of any required bridges or culverts. Typical cross section of the proposed grading of roadways and sidewalks, street intersection and parking area profile and geometry; and alleys.	✓	✓
Land Restrictions: The type and location of existing and proposed restrictions on land, such as easements and covenants.	✓ (Approximate)	✓
Erosion Control Plan: Locations where sediment must be trapped before entering a watercourse and the devises used to impede erosion during construction (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).		✓
Landscaping and/or Screening Plan: A landscaping plan shall illustrate to scale all landscaping and screening proposed for the site, including trees, planting beds, shrubs, bushes, grassed and mulched areas and other screening features including but not limited to fences, walls and berms. Plans shall include specifications for planting and a plan for maintenance care.	✓ (Approximate)	✓
Supporting Information/Documentation (As may be required by the Planning Commission. Supporting information may be required as a condition of a sketch plan decision or during the final plan/plat review of an application)		
Master Plan: An indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, or adjacent properties, and a description of the probable uses (drawn in sketch plan format). A phasing schedule may be required.		
Proposed Building Envelopes		
Traffic Impact Study: Current and proposed traffic volumes, capacities, levels of service and any proposed mitigation.		
Grading Plan: A plan showing proposed areas of cut and fill		
Lighting Plan: Locations and illumination of exterior lights and street lights.		
Fiscal Impact Analysis: An analysis of fiscal costs and benefits of the subdivision to the municipality.		
Environmental Impact Assessment: An analysis of potential environmental impacts, proposed mitigation measures.		

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Bond or Surety: A proposed performance bond or surety associated with any future public infrastructure.
Legal Documents: A draft of all newly created or revised deeds, covenants, homeowner agreements, tenant association agreements, or other legal documents associated with the proposed development.
Other information necessary to determine compliance with the requirements of these regulations.

SECTION 7.3 Boundary Line Adjustment and Two-lot Subdivision Review Procedure

A. **Pre-Application Conference.** Applicants shall schedule a meeting with the Zoning Administrator to review a proposed boundary line adjustments and two-lot subdivisions. The intent of this meeting is to discuss compliance with these regulations.

B. **Application Submission.** For boundary line adjustments and two-lot subdivisions, the subdivider shall submit a complete final subdivision plan/plat application. The application shall contain those items set forth in Table 7.1 of these regulations.

C. **Final Plan/Plat Review and Decision.** The Planning Commission shall hold a public hearing before issuing a decision on whether the proposed boundary line adjustment or two-lot subdivision shall receive final approval based on compliance with Section 7.9 Subdivision Development Standards and other applicable provisions of these regulations. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5 and 2.6 shall apply. As specified in Section 2.5, the Planning Commission may continue a public hearing to another date and time certain for the purpose of requesting additional evidence needed to determine compliance with these regulations.

D. **Effect of Final Approval.** Final approval of a plan/plat by the Planning Commission shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, utilities, park, recreational area, or open space shown on the final plan/plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

Deleted: B) ADMINISTRATION AND ENFORCEMENT¶

SECTION 7.4 Subdivision Review Procedure

Deleted: 1) These subdivision regulations shall be administered by the Planning Commission, as authorized and empowered by the Act.¶

A. **Applicability.** All subdivisions, besides boundary line adjustments and two-lot subdivisions, shall be reviewed using the following procedure:

1. **Preapplication Conference.** Applicants shall schedule a meeting with the Zoning Administrator to review a potential subdivision and discuss compliance with these regulations before submitting an application. This conference shall occur before a sketch plan application.

2. **Sketch Plan Review.** The applicant is required to submit a sketch plan of the proposed subdivision for the purpose of ensuring that the subdivision proposal meets the objectives and requirements of these regulations.

   a. **Application Submission.** The subdivider shall submit a complete sketch plan application containing those items set forth in Table 7.1 of these regulations.

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b. **Sketch Plan Review and Decision**. The Planning Commission shall hold a public hearing before issuing a sketch plan review decision. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5 and 2.6 shall apply. In its decision the Planning Commission shall determine whether or not the sketch plan conforms to the Town Plan and these regulations. Specific to the provisions of these regulations and the Town Plan, the Planning Commission may make specific specifications and/or recommendations for changes to be addressed in the subdivision plan/plat application.

c. **Application Waiver and Request for any Supporting Documentation/Information**. At Sketch Plan Review, the Planning Commission will decide on any requests for application waivers/modifications and request any supporting documentation or information as specified in Table 7.1.

3. **Final Subdivision Plan/Plat Review.**

a. **Application Submission.** Within six (6) months of sketch plan approval, the subdivider shall submit a complete final subdivision plan/plat application. The application shall contain those items set forth in Table 7.1 of these regulations and shall conform to the layout shown on the sketch plan, except as amended as a result of specifications or recommendations made by the Planning Commission in the sketch plan decision. If a final subdivision plan/plat application is not submitted to the Planning Commission within six (6) months of sketch plan approval, the sketch plan shall be considered expired and the subdivider shall be required to reapply for a sketch plan approval.

If phasing was a requirement of sketch plan approval, subsequent final plan/plat applications shall be filed for each phase within the time periods imposed in the sketch plan decision.

b. **Final Plan/Plat Review and Decision**. The Planning Commission shall hold a public hearing before issuing a decision on whether the proposed subdivision shall receive final approval based on compliance with Section 7.9 Subdivision Development Standards and other applicable provisions of these regulations. Public notice, public hearing, and decision requirements in Sections 2.4, 2.5 and 2.6 shall apply. As specified in Section 2.5, the Planning Commission may continue a public hearing to another date and time certain for the purpose of requesting additional evidence needed to determine compliance with these regulations.

c. **Effect of Final Approva**l. Final approval of a plan/plat by the Planning Commission shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, utilities, park, recreational area, or open space shown on the final plan/plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

SECTION 7.5 Filing of Final Survey Plat

A. **Survey Plat Specifications.** Upon approval of the final plan/plat review by the Planning Commission, the subdivider shall prepare a survey plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. A survey plat is a map drawn to scale on Mylar by a licensed land surveyor of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A signed certification is required from the

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licensed land surveyor who prepared the survey plat, indicating that all the permanent lot markers (pins) have been set. Survey plats shall be prepared according to the specifications listed below and are not required to include all the information required on the plan/plat approved by the Planning Commission:

1. Prepared on Mylar 18.0 inches by 24.0 inches in size;
2. Include clear and legible data and information;
3. Include the stamp and signature of licensed Land Surveyor;
4. Include a margin of 2.0 inches outside of the borderlines on the left side for binding and a 1.0-inch margin outside the border along the remaining sides;
5. Include an inset location map clearly indicating the location of the land depicted and a legend of symbols used;
6. Include plat scale ratios sufficient to allow all pertinent survey data to be shown, and graphic scale graduated in units of measure used in the body of the plat; and
7. Building envelopes (if required as a part of the subdivision or PUD).

B. **Endorsement and Filing**. The Chairperson (or acting Chairperson) of the Planning Commission shall endorse the survey plat with the date of the final plan/plat approval. Following endorsement by the chairperson of the Planning Commission and within 180 days of the Planning Commission's final approval, the subdivider shall submit the survey plat to the Town Clerk for filing. The Town Clerk shall endorse the survey plat before filing. The Planning Commission's written decision, which includes all permit conditions set by the Planning Commission, shall be filed in the land records of the Town and their location must be clearly referenced on the survey plat.

C. **Digital Copy of Plat**. A digital copy of the plat, in AutoCAD or similar format, shall be provided to the Zoning Administrator.

SECTION 7.6 Legal Requirements

A. Documentation and assurance shall be provided that all required road or other infrastructure improvements, associated rights-of-way and easements, and proposed roads and rights-of-way will be adequately maintained either by the applicant, a homeowners' association, or through other legal mechanisms. Such documentation shall be in a form approved by the Planning Commission during the final plan/plat review and shall be filed in the Fairfield Land Records.

B. All required road or other infrastructure improvements shall be constructed to approved specifications in accordance with a construction schedule approved by the Planning Commission. A performance bond or comparable surety may be required to ensure that all improvements are complete to specification. Such bond shall be posted in accordance with Section 2.6 of these regulations.

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SECTION 7.7 Expiration

A. Final plan/plat approval shall expire if the subdivider does not receive endorsement by the Planning Commission Chair and file the survey plat and related documents within the 180-day period. The Zoning Administrator, upon written request prior to the expiration date, shall extend the date for filing the survey plat by an additional 90 days if final local or state permits or approvals are still pending.

SECTION 7.8 Subdivision Amendments

A. No changes, erasures, modifications, or revisions shall be made on any subdivision plan/plat after final approval, unless said plan/plat is first resubmitted to the Planning Commission for final plan/plan review under Section 7.4(A)(3) above and the Planning Commission grants approval to the proposed modifications. In the event that such changes are recorded without complying with this requirement, the revisions shall be considered in violation of the subdivision approval.

SECTION 7.9 Subdivision Review Standards

A. **Application of Standards.** The Planning Commission shall evaluate all subdivisions, including boundary line adjustment, in accordance with the following standards, the applicable Planning and Design Standards in Article 8, and any other applicable standards in these regulations. The Planning Commission may require the subdivider to submit data addressing impacts related to these standards. In light of findings made on these standards, the Planning Commission may require modification and phasing of the proposed subdivision or minimization of any adverse impacts.

B. **General Standard of Review.** The Planning Commission shall determine if any land proposed for subdivision is designed and laid out to achieve the desired settlement pattern and purpose of the district in which it is located as defined in Section 4.3. All subdivisions shall:

1. Maintain and extend settlement patterns in conformance with the zoning district purpose statement, including dimensional standards (Section 4.4) and road layout (Section 8.3).

2. Provide for the preservation and protection of existing features as identified in the Fairfield Town Plan, including scenic views, streams, rock outcroppings, water bodies, other natural and historical resources.

3. Connect to and extend, where appropriate, existing roads, utility easements, open space, and forest blocks.

C. **Lot Size and Density.**

1. **Minimum Dimensional Standards**. No lot shall be created that does not meet the minimum dimensional standards of the district in which it is located, unless approved as a PUD (See Section 3.5).

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2) The Planning Commission may waive or vary the provision of any improvements or application submission requirements as in its judgment of the nature of the land or the project would be inappropriate and not requisite in the interest of the public health, safety and general welfare. In granting waivers or variances, the Planning Commission may impose such appropriate and reasonable conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or varied. No such waiver or variance may be granted if it would have the effect of nullifying the intent and purpose of these By-laws, the Fairfield Town Plan or the Act.¶
¶
3) . Any decision of the Planning Commission may be appealed to Environmental Court as provided in Sections 4471 and 4472 of the Act.¶
¶
4) Violations of these subdivision regulations shall be subject to the penalties, remedies and enforcement procedures provided in Sections 4451 and 4452 of the Act.¶
¶
C) FEES AND BONDS¶
A fee and a performance bond, the amount of which shall be determined from a schedule established by the Board of Selectmen, shall accompany the application for final plat approval. (24 V.S.A. 4464) 24 V.S.A. 4418 et seq. Apply.¶
¶
¶
SECTION 2.2 Review Procedure¶
¶
A) SKETCH PLAN REVIEW¶
1) . Notice Procedures. All development review applications before an appropriate municipal panel under procedures set forth in this chapter shall require notice as follows:¶
a) A warned public hearing shall be required for conditional use review, variances, administrative officer appeals and final plat review for subdivisions. 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 the following:¶
i) . Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality affected.¶
ii) Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. 312(c)(2) including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.¶
iii) . Written notification to the applicant and to owners of all properties adjoining the property subject to development without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information ...

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2. **Calculating the Maximum Number of Lots Allowed**. The maximum allowed number of lots for a particular subdivision is calculated by dividing the total land area by the minimum lot size for the district (See Section 4.4).

D. **Lot Shape.**

1. Lots shall be designed with consideration of natural and manmade features such as tree lines, stonewalls, ridgelines, roads, shorelines or other features recognizable on the land, in addition to maintaining viable agricultural fields and forest plots.

2. Side lot lines shall generally be at right angles to straight streets or radial to curved street lines.

3. Lots with irregular shapes (e.g. curves, jogs, dog-legs, spaghetti lots, flag lots, etc.) shall not be approved unless warranted by conditions as noted in subsection (D)(1) above.

E. **Lot Corner Markers**. Permanent corner markers shall be placed on all subdivided lots in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

F. **Energy Conservation.** The proposed subdivision shall demonstrate due regard for energy conservation in design:

1. To conserve energy, all subdivisions shall use minimize the amount of area for roadways and utilities.

2. Clustered development (e.g., planned unit development) should be considered wherever feasible, desirable and allowed.

G. **Community Services.**

1. **Traffic.** The proposed subdivision shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads. The proposed subdivision shall provide adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness. A Traffic Impact Analysis may be required by the Planning Commission to ensure conformance with this standard.

2. **Municipal Facilities and Services.** The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services. Considerations shall include the capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development.

3. **Fire Protection Facilities and Emergency Access.** Subdivisions shall provide adequate water storage or distribution facilities for fire protection to the satisfaction of the Planning Commission. The applicant shall submit documentation from the Fairfield Fire Department as to the adequacy of emergency access and fire protection facilities. Where recommended by the Fairfield Fire Department, the Planning Commission shall require the applicant to install fire hydrants, dry hydrants, or ponds.

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H. **Utilities.** All utility systems, existing and proposed, throughout the subdivision shall be shown on the final plan and be located as follows:

1. The applicant shall coordinate subdivision design with the utility companies to ensure adequate and suitable areas for installation, both for the proposed subdivision, and areas adjacent to the subdivision.

2. Utility corridors and easements shall be shared with other utility and/or transportation corridors, and located to minimize site disturbance, the fragmentation of agricultural, conservation and shore lands.

3. Utility corridors and easements shall be of sufficient width to serve both the proposed subdivision and existing and anticipated development outside the subdivision.

4. In the Village District, all utilities shall be installed underground as required in Section 4.5.

I. **Master Plan Review and Phasing**. The Planning Commission may require a sketch and description of the potential layout of the entire parcel and adjacent parcels (Master Plan) during Sketch Plan Review for the purpose of promoting orderly development of the Town. The Planning Commission may require the subdivision to be divided into two or more phases to be developed at separate times and may impose such conditions as necessary to assure orderly development in compliance with these regulations.

1. Any required Master Plan shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the parcel, and a description of the probable uses. The Master Plan may be drawn in a sketch plan format. The Planning Commission may require that the Master Plan and any phasing schedule be submitted as part of an extended sketch plan review, or as a part of the final plan/plat review.

2. Review and consideration of a Master Plan as part of any subdivision review does not constitute final approval of all phases of the full Master Plan.

J. **Conformance with Other Regulations**. Subdivision plats shall conform to all applicable provisions of these regulations, any Capital Budget and Program in effect, and all other bylaws, ordinances and regulations of the Town of Fairfield currently in effect.

Deleted: C) CONDITIONS OF FINAL PLAT APPROVAL¶ ...

SECTION 7.10 Natural Subdivision

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A. Where an existing property is divided by a road or right-of-way, it shall be considered contiguous for the purposes of zoning and subdivision.

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Existing Fairfield Regulations to be located here:¶
Section 1.7 Boundary Line Adjustments¶
Section 2.1 General Provisions¶
Section 2.2 Review Procedures¶
Section 2.3 Development Standards (in part)¶

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Article 8 – Planning and Design Regulations

SECTION 8.1 Applicability

A. Any application for land development subject to review by the Planning Commission or Board of Adjustment (conditional use, site plan, subdivision, PUD, waiver, variance, etc.) shall be approved only in conformance with the standards in this article.

B. Single household dwellings and two household dwellings subject to conditional use review shall only be subject to Section 8.3 Road and Pedestrian Access in this Article.

SECTION 8.2 Landscaping and Screening

Deleted: B) REQUIRED IMPROVEMENTS & DESIGN STANDARDS¶

A. **Site Preservation.** Existing vegetation such as trees and shrubs may be required to be retained by the Planning Commission or Board of Adjustment for screening and aesthetic purposes.

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B. **Landscaping.** The Planning Commission or Board of Adjustment may require landscape improvements for the purpose of reducing the visibility of unsightly or incompatible areas from the road and adjoining properties. Landscaping must meet seasonal conditions, soil conditions, and light conditions on the site and be installed in accordance with the following standards:

1. Landscaping shall take the form of native shade trees, deciduous shrubs, evergreens, well-kept grasses, ground cover and site modifications such as berms.

2. In determining the amount and type of plantings to be required, the Planning Commission shall take into account the following:

   a. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site to the greatest extent possible;
   b. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
   c. The landform and overall landscaping plan for the development; and
   d. Other factors which affect the safety and appearance of the development.

3. Off-street parking areas for uses other than single and two-family dwellings shall be required to be landscaped or screened from adjacent uses.

4. Landscaping shall be installed in a time frame established by the Planning Commission or Board of Adjustment in the written decision.

C. **Street Trees**. The Planning Commission and/or Board of Adjustment may require that suitable hardwood shade trees be planted along the streets where trees do not exist at intervals of forty feet. All such required trees shall measure at least ten feet in height and two inches in diameter measured six inches above finished grade, and shall be planted within five feet of the edge of the street right-of-way. For assistance in selecting street trees, please consult the Vermont Tree Selection Guide from the Vermont Urban & Community Forestry Program (https://vtcommunityforestry.org/sites/default/files/pictures/vttree_guide.pdf).

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D. **Village District.** Land development in the Village District shall meet the landscaping and screening standards in Section 4.5.

SECTION 8.3 Roads and Pedestrian Access

A. **Applicability of Road Standards.** These standards shall apply to all public and private roads. Roads are defined in Article 10. Acceptance of private roads by the municipality is subject to the approval of the Selectboard. Construction of roads to these standards in no way guarantees acceptance of the road by the municipality.

B. **Road Design and Construction Standards.** Public and private roads shall be constructed to meet the following standards:

1. **Right-of-Way Width.** Rights-of-way for all new public or private roads shall be a minimum of fifty (50) feet in width.

2. **Road Width.** All public and private road shall be constructed to meet the following width requirements:

Table 8.1 – Road Width

Type of Road	Traveled Way Width	Shoulder
Non-curbed road	24 feet (12 feet each lane)	3 feet (for each lane)
Curbed road	24 feet (12 feet each lane)	None

3. **Grade.** Road grades shall not exceed 10 percent on average in any 50-foot section. Continuous steep grades (500 feet or more) shall be avoided. Road alignment should allow easy access and traffic flow for emergency and other vehicles.

4. **Terminus.** Dead end roads shall be specifically discouraged. All dead end roads shall be constructed with a suitable turn around at the end; "T", "Y", and cul-de-sac configurations suitable to topography and adequate for emergency vehicles to turn around efficiently are permitted.

5. **Other Construction Details.** Design of streets shall conform to VTrans A-76 Standard including all standards regarding road subbase, intersection design, ditching, drainage, erosion control, side slopes, and paving. Where the standards in these regulations are stricter than the A-76 Standards the stricter standards shall apply.

6. **Village District.** All roads constructed in the Village District shall meet the requirements in Section 4.5(F). Where there is a conflict between the standards in this section and the Village District standards the Village District standards shall apply.

Figure 8.1 – Roads and Driveways

Road: A vehicular way which affords the principal means of access to abutting properties, and which serves four (4) or more non-agricultural parcels, which is constructed within the boundaries of an officially deeded or dedicated private right-of-way or easement, or an officially deeded or dedicated and accepted public right-of-way.

Driveway: An access serving three (3) or fewer parcels.

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Deleted: or such other standard as set forth in the road policy and shall be constructed logically in relation to the topography so as to produce safe intersections, grades and alignments and adequate drainage.

Deleted: 3) Design of streets shall conform to State A-76 standards or such other standard as set forth in the road policy and shall be constructed logically in relation to the topography so as to produce safe intersections, grades and alignments and adequate drainage. . ¶

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<#>f) Roads will be constructed according to anticipated traffic use. The following shall be considered a guide to road construction:¶
<#>¶
<#>Anticipated Average Daily Traffic . Width With Shoulders Sub-Base Depth¶
<#>0–25 . 3 feet, 14 feet, 3 feet 12inches¶
<#>26–50 . 3 feet, 20 feet, 3 feet 12 inches¶
<#>51–100 . 3 feet, 24 feet, 3 feet 12 inches¶
<#>¶
<#>i) . 18 inches of road base may be required if appropriate for volume of traffic. A topcoat of gravel will be required to a thickness of six to eight inches.¶
<#>ii) All newly constructed roads within the Fairfield Village District shall be constructed as outlined above and shall have a paved surface. Sidewalks shall be required on all newly constructed roads within the Fairfield Village District.¶
<#>iii) . Road grades should not exceed 10 percent. Continuous steep grades (500' or more) should be avoided. Road alignment should allow easy access and traffic flow for emergency and other vehicles.¶
<#>g) Culverts should be sized for 25 percent greater capacity than needed. Twelve inch culverts should be considered the minimum necessary for driveways in dr …

Moved up [6]: <#>n) . Where a property is divided by a road or right-of-way, it shall be considered contiguous land for the purposes of zoning and subdivision.¶

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<#>In Village District, all roads shall be designed to meet the standards in Section 4.4.

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C. **Connectivity and Coordination.**

1. **Intersections.** A new or relocated road shall be designed to be directly opposite an existing road or driveway to form a four-way intersection, if possible. The Planning Commission and/or Zoning Board of Adjustment shall not permit intersections that create centerline offsets of less than 125 feet.

2. Streets shall be laid out to coordinate existing and future development of adjacent tracts. Where extensions of new roads could provide future access to adjoining parcels, a right-of-way shall be provided.

3. Private roads should be designed to minimize road cuts onto Town Highways, allow free flow of traffic through the development (avoid dead ends and cul-de-sacs), and to be able to coordinate with future potential development roads on adjacent properties (use of easements if necessary).

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D. **Access Permits.** In accordance with statute and Section 5.5, all road access shall be subject to the approval of the Vermont Agency of Transportation in the case of state highways and the Fairfield Selectboard in case of Town roads.

E. **Access Management.** In addition to access requirements under Section 5.5, to better manage traffic flow and safety, avoid congestion and frequent turning movements, preserve the carrying capacity of important travel corridors, and to avoid strip development, the following access management standards shall apply:

1. Private roads providing access to multiple lots are encouraged and may be required to limit the number of access points onto public highways in accordance with Section 5.5.

2. If land development on a lot has frontage on primary and secondary roads, access shall be from the road with the least amount of traffic unless the Planning Commission and/or Board of Adjustment determines that topographical or traffic safety conditions make such an access impracticable.

3. The creation of reserved strips shall not be permitted adjacent to a proposed road in such a manner as to deny access from adjacent property to such road.

F. **Upgrade to Existing Roads.** When new development is accessed from an existing road, applicants may be required to make improvements to the existing road according to the following standards:

1. **Existing Driveways and Private Roads**.
   a. Land development that proposes to add a fourth (4th) parcel, dwelling unit, or use to an existing driveway shall be required to upgrade the driveway to a private road that meets the road construction and design standards in this Section.
   b. Land development proposing to add an access from any parcel, dwelling unit, or use to an existing non-complying private road or driveway shall be required to upgrade the road or driveway to comply with the road construction and design standards in this Section.

2. **Existing Public Roads.** A development proposing to add access to any parcel, dwelling unit, or use from a non-conforming public road shall not be responsible for road improvements unless

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required by the Planning Commission and/or Board of Adjustment based on a traffic impact study according to (3) below. For Class 4 roads, the Planning Commission and/or Board of Adjustment may require a memorandum of understanding between the applicant and the Town regarding year-round maintenance of the road.

3. **Traffic Impact Study.** The Planning Commission and/or Board of Adjustment may require the provision of a Traffic Impact Study to analyze the impact of the proposed development on street capacity and safety. A formal traffic impact study shall be required when the project involves twenty-five (25) parking spaces, the creation of twenty (20) dwelling units or lots, or at the discretion of the Planning Commission and/or Board of Adjustment poses a substantial impact on the capacity and safety of local roads. The formal study shall include details of existing and proposed ingress and egress, traffic volumes, turning movements, levels of service, traffic control, and pedestrian access and safety. To maintain adequate road capacity and safety, the Planning Commission and/or Board of Adjustment, in consultation with the Selectboard, may require improvements to roads in the vicinity of the development based on the results of the traffic impact study.

G. **Modifications of Road Standards.** In the case of unusual topographical conditions or other circumstances which would make the strict adherence to these standards create an undue adverse effect upon the applicant, the Planning Commission and/or Board of Adjustment may modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners, and is designed in a manner that is consistent with other applicable standards or these regulations.

H. **Sidewalks and Pedestrian Access.**

1. **Village District.** Sidewalks and pedestrian access shall be required by the Planning Commission and/or Zoning Board of Adjustment along all public and private roads within the Village Zoning District in accordance with the requirements in Section 4.5.

2. **Other Areas.** Sidewalks or multi-use pathway may also be required within subdivisions when deemed necessary by the Planning Commission due the density of development or in order to facilitate pedestrian access from public and private roads to schools, parks, playgrounds, or other community resources. Alternatively, the Planning Commission may require perpetual unobstructed easements at least twenty (20) feet in width for the purpose of pedestrian accessibility via a future trail, multi-use pathway, or sidewalk. When required, sidewalks and other pedestrian infrastructure shall be constructed to standards established by the Vermont Pedestrian and Bicycle Facility Planning and Design Manual.

SECTION 8.4 Conservation Resources

A. **Applicability.** This section shall apply to land development subject to Planning Commission and/or Board of Adjustment review and involving Conservation Resources. For the purpose of these regulations, Conservation Resources shall include prime and statewide agricultural soils and other farmland, and steep slopes greater than fifteen percent (15%) grade.

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B. **Exemptions**. Land development subject to Planning Commission and/or Board of Adjustment review and located in the Village District shall be exempt from the standards in this section.

C. **Review Standards.** Land development subject to this section shall not have an undue adverse effect upon Conservation Resources. As such, the Planning Commission and/or Board of Adjustment shall ensure compliance with the following standards.

1. **Building Envelopes**. All subdivision and PUD applications that include land with any Conservation Resources shall provide building envelopes on each lot. All building envelopes shall be delineated so that land development will limit any undue adverse effects on areas with Conservation Resource Areas. All structures on a lot shall be constructed within the building envelope.

2. **Farmland and Agricultural Soils.** Farmland and land area with prime and statewide agricultural soils shall be subject to the following provisions:

   a. The Planning Commission and/or Zoning Board of Adjustment may require a vegetated buffer area between existing agricultural uses and other uses to minimize land use conflicts.
   b. The fragmentation of farmland and land area with prime and statewide agricultural soils shall be minimized.
      i. Where sites include linear features such as tree lines, stone walls, and/or fence lines, all access roads, driveways and utility corridors shall follow such features to minimize the fragmentation of farmland and/or prime or statewide agricultural soils, unless the Planning Commission and/or Board of Adjustment determines that doing so will cause such fragmentation. The Planning Commission and/or Board of Adjustment may require that access roads, driveways and utility corridors share the same right-of-way.
      ii. All structures shall be located at field or pasture edges, or if not feasible due to topographical or environmental constraints, on the least fertile soils on the lot (based on the latest NRCS soil survey).
      iii. For subdivision and PUD applications only, all building envelopes shall be located at field or pasture edges, or if not feasible due to topographical or environmental constraints, on the least fertile soils on the lot (based on the latest NRCS soil survey).
   c. Where farmland and/or prime or statewide agricultural soils are present within a subdivision or PUD, all or part of this land shall be included in any required open space or conservation lot.

3. **Steep Slopes over 25 Percent Grade.** Steeply sloping lands (over 25 percent grade) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

   a. No site disturbance or land development shall be allowed on slopes exceeding 25 percent.
   b. Slopes exceeding 25 percent that are created by an extraction or quarrying use approved per Section 6.6 shall be exempt from this section.

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4. **Steep Slopes (15%-25%).** Steep slopes between 15% and 25% grade are prone to erosion. Land development in areas with steep slopes between 15% and 25% grade shall be subject to the following provisions:

   a. No roads or driveways shall be located on areas identified as steep slopes between 15% and 25% grade.
   b. If land containing steep slopes between 15% and 25% grade is to be subdivided, such areas shall be excluded from building envelopes, unless the applicant provides the Planning Commission and/or Zoning Board of Adjustment with an erosion control plan and the Planning Commission and/or Zoning Board of Adjustment finds that the plan will adequately prevent erosion.

SECTION 8.5 Stormwater Management and Erosion Control

A. Stormwater Management.

1. **Stormwater Management Plan.** The preparation and implementation of a stormwater management plan, prepared by a professional engineer licensed by the State of Vermont, shall be required.

2. **Standards.** Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the subject property. The Planning Commission and/or Board of Adjustment shall require the applicant to maintain post-development peak storm flows at predevelopment levels. Land shall be developed and subdivided so as to retain the land's natural contours and to conserve the natural cover and soil. Permanent vegetation and erosion control measures shall be established according to a schedule as required by the Planning Commission and/or Board of Adjustment. All stormwater management facilities shall be designed in accordance with the best management practices (BMPs) for stormwater management in the Vermont Stormwater Management Manual Rule and Design Guidance as most recently amended.

B. Erosion Control.

1. **Sedimentation and Erosion Control Plan**. The Planning Commission and/or Board of Adjustment shall require the preparation and implementation of a sedimentation and erosion control plan to ensure site improvements, including excavation, road and driveway construction, and site clearing and grading does not unduly impact neighboring properties or surface waters during project construction. This plan shall be prepared by a professional engineer licensed by the State of Vermont.

2. **Standards.** All erosion control measures shall be designed in accordance with the best management practices (BMPs) for erosion control in the Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control as most recently amended.

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Deleted: A. Specific conditional use standards for meadowland shall be applied where conversion of meadowland or cropland will occur. A permit may be granted only if the Board is able to make the following findings:¶
1. The lot for which development is proposed contains no land practically suitable for development other than meadow or cropland.¶
2. The development is situated so as to minimize the loss of meadow/cropland. The Board may require that the developer cluster the houses and/or submit for P.R.D. or P.U.D.¶
3. The maximum amount of meadow/cropland is retained for continued agriculture use.¶
4. Scenic qualities of the area are maintained or enhanced. (This may involve sale or transfer of development rights, P.R.D's or clustering)¶
5. The proposed development will not interfere with the continuance of nearby agricultural uses. (Note: residential and agricultural usage may be in conflict. In Fairfield agricultural use takes priority and residential users should be aware of this.)¶
¶

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Deleted: The preparation and implementation of a stormwater management plan, prepared by a professional engineer licensed by the state, may be required by the DRB. Off-site easements and/or management facilities may also be required by the Board as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.¶

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Deleted: Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. All areas exposed during construction shall be protected in accordance with standards of the Vermont Agency of Natural Resources, …

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Deleted: 6) Drainage facilities shall be provided sufficient to accommodate the twenty-five year return period storm runoff from all streets, lots and upstream drainage areas, …

SECTION 8.6 Utilities

A. **Location.** All utility systems shall be located as follows:

1. The applicant shall coordinate design with utility companies to ensure adequate and suitable areas for under or above ground installation, both for the proposed land development, and areas adjacent to the land development.

2. Utility corridors shall be shared with other utility and/or transportation corridors to the greatest extent possible, and be located to minimize site disturbance, the fragmentation of agricultural land and open space, any undue adverse impacts to natural, cultural or scenic resources, and to public health.

B. **Utility Easements.** Utility easements of sufficient width shall be provided so as to serve both the proposed land development and existing and anticipated development adjacent to the proposed land development.

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All utility systems, which may include but not be limited to, electric, gas, telephone, fiber optics, and television cable, shall be located underground throughout the subdivision, unless deemed unreasonable and prohibitively expensive by the DRB (for example, burial would require extensive blasting and ledge removal for most of the length of the utility extension).

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Existing Fairfield Regulations to be located here:¶
Section 1.8 Additional Data & Independent Review¶
Section 2.3 Development Standards (in part)¶
Section 3.4 Miscellaneous Specific Provisions (in part)¶

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Article 9 – Flood Hazard and River Corridor Regulations

SECTION 9.1 Statutory Authorization and Effect

A. In accordance with 24 V.S.A. §§ 4424 and 4414, there is hereby established requirements for areas at risk of flood damage in the Town of Fairfield, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 V.S.A. Chapter 117.

SECTION 9.2 Purpose

A. **Purpose.** It is the purpose of this article to:

1. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding-related inundation and erosion hazards.

2. Ensure that the selection, design, creation, and use of development in flood hazard areas and river corridors is reasonably safe, accomplished in a manner that minimizes or eliminates the potential for loss and damage to life and property due to flooding-related inundation and erosion hazards, and does not impair stream equilibrium, floodplain services, or the river corridor.

3. Manage all flood hazard areas designated pursuant to 10 V.S.A. §§ 751 and 753.

4. Make the Town of Fairfield, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds, as may be available.

SECTION 9.3 Administration

A. These standards shall apply to all development in the Town of Fairfield located within the Flood Hazard Area Overlay District. The Flood Hazard Area Overlay District overlays other existing zoning districts. All other requirements of the underlying district shall apply in addition to the provisions herein, unless otherwise indicated. The Flood Hazard Area Overlay District is composed of two areas:

1. **River Corridor.** The River Corridors as published by the Vermont Agency of Natural Resources (including the Statewide River Corridors and refinements to that data based on field-based assessments which are hereby adopted by reference) and/or a fifty (50) foot setback from the top of steam bank, or slope, from all rivers and streams in Fairfield with a drainage area greater than 0.5 square miles in size as included in the Vermont Hydrography Dataset (VHD). If the fifty (50) foot setback area is greater in size than the mapped River Corridor area, the fifty (50) foot setback area shall take precedence. Data regarding the size of drainage areas for all rivers and streams in Fairfield is available from the Vermont Agency of Natural of Resources and available from the Fairfield Zoning Administrator.

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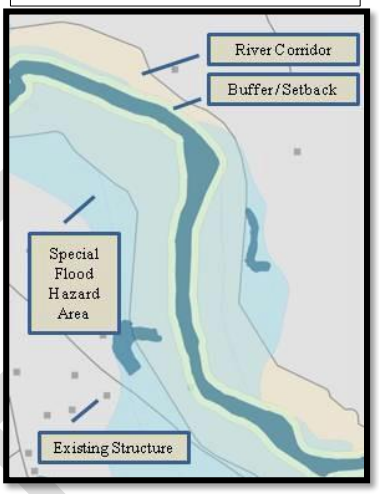
2. **Special Flood Hazard Area.** The Special Flood Hazard Area identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

Figure 9.1 – Special Flood Hazard Area and River Corridor



B. **Interpretation.** The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate. However, if uncertainty exists regarding the River Corridor or Special Flood Hazard Area boundary the following procedure shall be followed:

1. **River Corridor.** If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof. When the Agency of Natural Resources receives a request for a letter of determination, Agency of Natural Resources evaluates the site and existing data to see if a change to the river corridor delineation is justified, necessitating a river corridor map update. An Agency of Natural Resources letter of determination will either confirm the existing river corridor delineation or will result in an update to the river corridor delineation for the area in question. If a map update is justified, an updated map will be provided with the letter of determination.[1]

2. **Special Flood Hazard Area.** If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment from FEMA shall constitute proof that the property is not located within the Special Flood Hazard Area.

C. **Special Flood Hazard Areas - Base Flood Elevations and Floodway Limits.**

1. Where available (i.e. zones A1-A30, AE, & AH), the base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce the provisions of these regulations.

[1] River Corridor map updates are further explained in the Flood Hazard Area & River Corridor Protection Procedure: http://dec.vermont.gov/sites/dec/files/documents/DEC_FHARCP_Procedure.pdf

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2. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program (i.e. Zone A) in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data available from state or federal agencies or other sources.

D. **Precedence.** The provisions of this article shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this article imposes a greater restriction the provisions here shall take precedence.

E. **Warning of Disclaimer of Liability**. This article does not imply that land outside of the areas covered by this article will be free from flood or erosion damages. This article shall not create liability on the part of the Town of Fairfield, or any municipal official or employee thereof, for any flood or erosion damages that result from reliance on these regulations, or any administrative decision lawfully made hereunder.

F. **Exempted Development**. The following types of development are exempt from review under the standards of this Article within the Flood Hazard Area Overlay District:

1. The removal of a building or other improvement in whole or in part, so long as the ground elevations under and adjacent to the removed structure remain unchanged. Please be aware that for damaged structures where FEMA mitigation funds may be used, the damaged structure may be required to remain in place until funds are granted.

2. Routine maintenance of existing buildings in the usual course of business required or undertaken to conserve the original condition, while compensating for normal wear and tear. Routine maintenance includes actions necessary for retaining or restoring a piece of equipment, machine, or system to the specified operable condition to achieve its maximum useful life and does not include expansions or improvements to development.

3. Interior improvements to existing buildings that cost less than five-hundred (500) dollars.

4. Maintenance of existing sidewalks, roads, parking areas, or stormwater drainage; this does not include expansions.

5. Maintenance of existing bridges, culverts, and channel stabilization activities; this does not include expansions.

6. Streambank armoring and stabilization, retaining walls, and abutment work that do not reduce the cross-sectional flow area of the river or stream channel and have coverage under a Stream Alteration Permit, if required, under 10 V.S.A. Chapter 41 and the rules adopted thereunder.

7. The following activities are exempt from municipal regulation, but may require a permit under the State's "Vermont Flood Hazard Area and River Corridor Rule" (Environmental Protection Rule, Chapter 29):
   a. State-owned and -operated institutions and facilities.
   b. Forestry operations and silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices for

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Maintaining Water Quality on Logging Jobs in Vermont or other accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation.

c. Agricultural activities conducted in accordance with the Vermont Agency of Agriculture Food and Market's Required Agricultural Practices (RAPs).

d. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

e. Telecommunications facilities regulated under 30 V.S.A. § 248a.

8. Planting projects which do not include any construction or grading activities in accordance with 24 V.S.A. § 4424(c).

SECTION 9.4 Application Requirements in Flood Hazard Area Overlay District

A. **Application Submission Requirements** All applications for development in the Flood Hazard Area Overlay District shall include:

1. **Site Plan**. A site plan that depicts the proposed development, all water bodies, all boundaries (Flood Hazard Area Overlay District boundaries – both River Corridor and Special Flood Hazard Area), the shortest horizontal distance from the proposed development to the top of bank of any river, any existing and proposed drainage, any proposed fill, pre- and post-development grades, and the elevation of the proposed lowest floor as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;

2. **Project Review Sheet**. A completed Vermont Agency of Natural Resources Project Review Sheet.

B. **Supplemental Application Requirements.** Some applications may require additional information based on the location and type of the development. The following information shall be developed and provided with an application, as required below:

1. **Base Flood Elevation (BFE).** BFE information is required for:
   a. Replacement, substantially improved, or substantially damaged structures located within any Flood Hazard Overlay District, including Zone A, where no BFEs have been provided;
   b. Projects requiring elevation or dry-floodproofing above BFE;
   c. Additions to existing historic structures; and
   d. Any accessory structure proposed to be built in accordance with Section 9.6 and having building utility systems that will need to be protected from flood waters through elevation above the BFE.

2. **Floodway Data**. The following information is required for development proposed to be located in the floodway. All floodway data shall be certified by a registered professional engineer. All submitted proposals shall include electronic input/output files mapping showing cross-section locations and the following information:
   a. Hydraulic calculations demonstrating no rise in BFE or velocity for proposed new or expanded encroachments within the floodway.
   b. In accordance with 44 C.F.R. § 60.3(c)(10), where BFE data has been provided by FEMA, but no floodway areas have been designated, the applicant shall provide a floodway delineation that demonstrates that the proposed development, when combined with all existing and

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anticipated future development, will not increase the water surface elevation of the base flood by more than one foot at any point within the community.

3. **Compensatory Flood Storage.** The following information is required for applications that require compensatory flood storage pursuant to Section 9.6:
   a. Designs shall provide equivalent storage volumes during peak flows up to and including the base flood discharge. This No Adverse Impact (NAI) volumetric analysis and supporting data shall be certified by a registered professional engineer.
   b. If it appears that the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis may be required to verify that a proposed development will not increase flood elevations or velocities of floodwaters. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.

4. **River Corridor Assessment.** The following information is required for applications proposing development within the river corridor:
   a. Information clearly demonstrating how the proposed development meets the infill or shadowing requirements in Section 9.6; or
   b. A narrative and supporting technical information from a qualified consultant that demonstrates how the proposal meets the River Corridor Performance Standard in Section 9.6; or
   c. Evidence of an approved major or minor map update issued by ANR in accordance with the process outlined in the DEC Flood Hazard Area & River Corridor Protection Procedure, finding the proposed development is not located within the River Corridor. Please note that ANR may require the applicant to provide technical data from a qualified consultant to justify a map update.

5. **Waivers.** Upon written request from the applicant, the Planning Commission and/or Board of Adjustment may waive specific application requirements when the data or information is not needed to comply with these regulations. A determination to waive the compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager that project will have only a minimal effect on floodwater storage.

SECTION 9.5 Development Review Process in Flood Hazard Area Overlay District

A. Referral.

1. Upon receipt of a complete application for new construction or a substantial improvement, the Zoning Administrator shall submit a copy of the application and supporting information to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, in accordance with 24 V.S.A. § 4424. A zoning permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. The Zoning Administrator, Planning Commission and/or Board of Adjustment shall consider all comments from ANR. Any application requiring conditional use, site plan or variance review shall be referred to the Planning Commission and/or Board of Adjustment in accordance with 24 V.S.A. § 4460.

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2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the River Management Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

B. **Review Process.**

1. **Administrative Review.** The following types of development within the Flood Hazard Area Overlay District may be reviewed and approved administratively by the Zoning Administrator:
   a. Changes from a permitted land use to another permitted land use provided that any other changes to the site may also be administratively reviewed.
   b. Above grade development which has not been elevated by the placement of fill, that is one foot above base flood elevation and documented with field-surveyed topographic information certified by a registered professional engineer or licensed land surveyor.
   c. Open fencing and signs elevated on poles or posts that create minimal resistance to the movement of floodwater.
   d. Municipal transportation infrastructure improvements designed and constructed by the Vermont Agency of Transportation that have written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
   e. River and floodplain restoration projects, including dam removal, that restore natural and beneficial floodplain functions and include written confirmation from the ANR Regional Floodplain Manager that the project is designed to meet or exceed the applicable standards in this bylaw.
   f. Improvements or repairs of damage to structures that do not expand the existing footprint and do not meet the definition of "substantial improvement" or "substantial damage."
   g. Accessory structures less than 500 square feet in size (except those located in the Floodway).
   h. Building utilities.
   i. Recreational vehicles.

2. **Development Review.** All other development in the Flood Hazard Overlay District shall require plan review (Section 3.3) by the Development Review Board.

C. **Public Notice and Hearings.**

1. Prior to the issuance of a zoning permit, proposals needing Planning Commission and/or Board of Adjustment approval shall meet the public hearing requirements in Section 2.4 and Section 2.5.

D. **Decisions.**

1. The Zoning Administrator, Planning Commission, and/or Board of Adjustment shall consider comments from the ANR when making a decision on an application.

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2. Decisions on applications that require Planning Commission and/or Board of Adjustment review shall be made in accordance with Section 2.6.

E. **Zoning Permit.** A zoning permit for development in the Flood Hazard Overlay District shall be issued by the Zoning Administrator only in accordance with the requirements of Article 2, Section 3.1, and the following provisions:

1. Within 30 days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a permit in writing, or to refer the application to the Planning Commission and/or Board of Adjustment, or to ANR for consideration, as required by Section 9.5(A). If the Zoning Administrator fails to act with regard to a complete application for a permit within the 30-day period, a permit shall be deemed issued on the 31st day, unless the permit is for new construction or substantial improvement, in which case a permit shall not be issued until the Zoning Administrator has complied with the requirements of Section 9.5(A).

2. No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the Planning Commission and/or Board of Adjustment until such approval has been obtained. For permit applications that must be referred to a state agency for review, no 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.

SECTION 9.6 Development Review Standards in Flood Hazard Area Overlay District

A. **Development Review in Special Flood Hazard Area (SFHA).** The criteria below are the minimum standards for development in the Special Flood Hazard Area. If the floodway or flood fringe is not specified, the standard shall apply to the entire Special Flood Hazard Area. Where more than one district is involved, the most restrictive standard shall take precedence.

1. **Development in the Floodway**. Within the floodway, the following standards apply:
   a. New encroachments, including structures, are prohibited within the floodway, except for the following, which also shall comply with subsection (b) below:
      i. Changes to existing structures where the footprint is proposed to expand horizontally into the floodway less than 500 square feet;
      ii. New encroachments relating to bridges, culverts, roads, stabilization projects, public utilities, functionally dependent uses, and river or floodplain restoration projects; and
      iii. New encroachments relating to health and safety measures, such as replacement of pre-existing on-site septic and water supply systems, if no other practicable alternative is available;
   b. For all proposed new encroachments and above-grade development, a hydraulic analysis is required to be provided for review. The analysis should be performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will:
      i. Not result in any increase in flood levels during the occurrence of the base flood;

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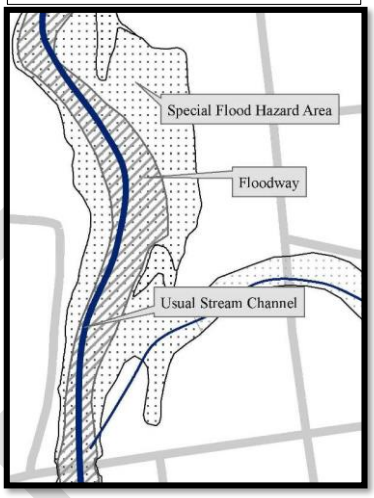
ii. Not increase base flood velocities; and
iii. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

c. For development that is either below grade or will not result in any change in grade, the hydrologic & hydraulic analyses may be waived, where the applicant will provide pre and post-development elevations demonstrating that there will be no change in grade, and that the development will be adequately protected from scour.

d. For any new encroachment that is proposed within the floodway sub-district where a hydraulic analysis is required, the applicant may provide a FEMA Conditional Letter of Map Revision (CLOMR) in lieu of a hydraulic analysis, to demonstrate that the proposed activity will not have an adverse impact.

Figure 9.2 – Floodway and Special Flood Hazard Area



2. **No Adverse Impact (NAI) Standard within the Flood Fringe.** Within the flood fringe, the following standards apply:

a. **Compensatory Flood Storage**. New development or redevelopment shall not decrease flood storage capacity. Therefore, except as noted in subsection (b) (Compensatory Flood Storage Requirement Exceptions) below, development that displaces floodwater storage in the flood fringe shall provide compensatory storage to offset the impacts of the proposal. This is required when the development will cause an increase, or will contribute incrementally, to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge.
   i. Volumetric analyses[2] and supporting data, demonstrating compensatory storage to offset the impacts of the proposal, shall be provided by the applicant and certified by a registered professional engineer.
   ii. An applicant may submit a hydraulic analysis that demonstrates that a project will not increase flood elevations and velocities on floodwaters in lieu of a NAI volumetric analysis.
   iii. Compensatory flood storage designs shall not materially impact adjacent landowners or structures.
   iv. If the design may create an undue adverse impact to adjacent landowners or structures, a hydraulic analysis shall be required to verify that a proposed development will not increase base flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.

b. **Compensatory Flood Storage Requirement Exceptions.**
   i. The NAI compensatory storage requirement may be waived for proposed designs that have no more than a minimal effect on floodwater storage and will not result in diverting floodwaters onto an adjacent property or structure. Examples of designs that have a

[2] For more information on volumetric analysis, please refer to ANR's Compensatory Flood Storage guide at http://dec.vermont.gov/watershed/rivers/river-corridor-and-floodplain-protection/state-permits

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minimal effect on floodwater storage include an open foundation design; utility work that is largely or completely located below grade; minor above ground improvements such as fences or poles that minimally displace or divert floodwaters; and development that will not result in any change to the predevelopment ground elevations. A determination to waive the NAI compensatory storage requirement shall include written concurrence from the ANR regional floodplain manager, that the project will have only a minimal effect on floodwater storage.

ii. For remediation of properties with contaminated soils, such as Brownfields sites, the NAI compensatory storage requirement may be waived, if hydraulic analysis demonstrates that the remediation will not increase flood elevations and velocities. Hydraulic analyses and supporting data shall be provided by the applicant and certified by a registered professional engineer.

iii. The NAI compensatory storage requirement may be waived for a replacement structure if:

I. There is no increase in the structure's footprint, or

II. An open foundation design is used. Examples include using compliant flood vents or openings, or elevating the structure on post, piers, or pilings with no structural foundation walls below the design flood elevation. The NAI compensatory storage requirement may be waived for associated transportation and utility networks and replacement on-site septic system proposals, if the applicant demonstrates that the placement of fill cannot be mitigated.

3. **The Special Flood Hazard Area.** Within the entire Special Flood Hazard Area, the following standards apply:

a. All development shall be:

i. Reasonably safe from flooding;

ii. Designed (or modified) and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;

iii. Constructed with materials resistant to flood damage;

iv. Constructed by methods and practices that minimize flood damage;

v. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

vi. Adequately drained to reduce exposure to flood hazards; and

vii. Required to elevate or floodproof any fuel storage tanks to at least two feet above the base flood elevation. This can be achieved by:

I. Elevating the fuel storage tank a minimum of two feet above the BFE and securely anchoring the tank to prevent flotation. The tank shall be located on the land-ward or downstream side of the building and all inlets, fill openings, line connections, and vents shall be elevated to two feet above the BFE. Any structure or platform used to elevate the tank shall be designed to withstand anticipated flood loads and forces;

II. In places where elevation of the fuel storage tank is not possible due to the location of existing fuel hookup/fuel lines into an existing building:

A. The tank shall be securely anchored to prevent floatation while protecting it from flood forces and debris. Any structure or platform used to anchor and protect the tank shall be designed to withstand anticipated flood forces and debris. The tank vent pipe/valve shall be located at a minimum two feet above the BFE; or

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B. Storage tanks may be placed underground, if securely anchored and certified by a qualified professional and are protected from flood forces such as scour, erosion, velocity flow, and buoyancy (uplift) force.

b. For any new structure, replacement structure, substantially improved structure, or structure that has experienced substantial damage, outdoor utilities (electrical, heating, ventilation, plumbing, and air conditioning equipment) and other service facilities (such as sewer, gas, and water systems), shall be located on the landward or downstream side of the building and/or behind structural elements, and located and constructed to minimize or eliminate flood damage.

c. In Zones AE and A1 – A30 where floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than one foot at any point within the community. The demonstration shall be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

d. For new, replacement or substantially improved structures, or for structures that have incurred substantial damage, fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

e. Recreational vehicles, equipment and boat trailers, portable toilets, construction trailers, and other travel trailers shall:

i. Be currently registered, licensed and ready for highway use; or

ii. Be on site for fewer than 180 consecutive days; or

iii. Meet the all other requirements applicable to structures.

f. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

g. Sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

h. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

i. The flood carrying capacity within any altered or relocated portion of any watercourse shall be maintained, any alteration or relocation shall not result in any decrease of stream stability.

j. Bridges, culverts and channel management activities, which by their nature shall be placed in or over the watercourse, shall have a Stream Alteration permit from the Agency of Natural Resources, if required.

k. Subdivisions and Planned Unit Developments shall be accessible by dry land access outside of the Flood Hazard Area Overlay District.

l. **Structural Standards.** All structures in the Special Flood Hazard Area shall meet the following standards:

i. New structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage shall be located such that the lowest floor is at least two feet above base flood elevation. This shall be documented in the proposed and as-built condition with a FEMA Elevation Certificate.

ii. New non-residential structures, and non-residential structures to be substantially improved, replaced, or that have incurred substantial damage shall:

I. Meet the standards of subsection (A)(3)(l) above; or have the lowest floor, including basement, together with attendant utility and sanitary facilities, designed so that two feet above the base flood elevation the structure is dry floodproofed, meaning watertight with walls substantially impermeable to the passage of water and with

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structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

II. A permit for dry floodproofing shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications, and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection;

III. Dry floodproofing measures used to meet the above floodproofing standard shall work without the use of human intervention at the time of flooding. Exceptions to this standard are when the facility is adequately staffed at all hours with people trained and able to deploy the facility's floodproofing measures, or if the structure is located in a floodplain that has a National Weather Service flood forecast stream gauge that provides adequate advanced warning of potential flooding for the deployment of the floodproofing system.

iii. New structures, or existing structures to be substantially improved or replaced, or that have incurred substantial damage in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least two feet above the depth number specified on the community's FIRM, or at least three feet if no depth number is specified.

iv. Critical facilities that are to be replaced, substantially improved, or meet the definition of substantial damage shall be constructed so that the lowest floor, including basement, shall be elevated or dry-floodproofed at least one foot above the elevation of the 0.2% annual flood height (500-year floodplain), or three feet above base flood elevation, whichever is higher. A critical facility shall have at least one access road connected to land outside the 0.2% annual chance floodplain that is capable of accommodating emergency services vehicles. The top of the access road shall be no lower than six inches below the elevation of the 0.2% annual chance flood event.

v. For historic structures that would meet the definition of substantial improvement or substantial damage if not for their historic structure designation, the improved or repaired building shall meet the following mitigation performance standards for areas below the base flood elevation:

I. Any future damage to enclosures below the lowest floor shall not result in damage to the foundation, utility connections, or elevated portions of the building or nearby structures;

II. Utility connections (e.g., electricity, water, sewer, natural gas) shall be protected from inundation and scour or be easily repaired;

III. The building foundation shall be structurally sound and reinforced to withstand a base flood event;

IV. The structure's historic designation shall not be precluded;

V. The likelihood of flood waters entering the structure during the base flood is reduced; and

VI. There shall be no expansion of uses below base flood elevation except for parking, storage, building access, or, in the case of non-residential buildings, where the space is dry floodproofed.

vi. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding, shall:

I. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and

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II. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above adjacent grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and

III. Include a signed non-conversion agreement from the owner of the structure with the permit application stating that the enclosed area below the BFE will not be converted to another use not listed above in Section 9.6(A)(3)(I)(vi)(I) and that the community would have the ability to inspect the exterior and interior of the enclosed area in compliance with the standards laid out in the non-conversion agreement.

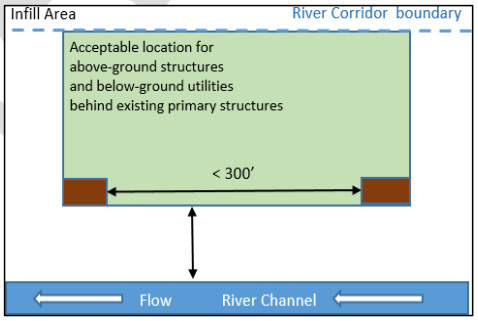
vii. A small accessory structure of 500 square feet or less need not be elevated to the base flood elevation, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in subsection (A)(3)(a) above.

B. **Development Review in the River Corridor.** The criteria below are the minimum standards for development in the River Corridor. Where more than one district is involved, the most restrictive standard shall take precedence.

1. Development within designated centers shall be allowed within the river corridor if the applicant can demonstrate that the proposed development will not be any closer to the river than pre-existing adjacent development.

2. Development outside of designated centers shall meet the following criteria:
   a. **In-Fill Between Existing Development:** Development must be located no closer to the channel than the adjacent existing primary structures, within a gap that is no more than 300 feet (see Figure 9.3), or

Figure 9.3 – In-fill Development Standard



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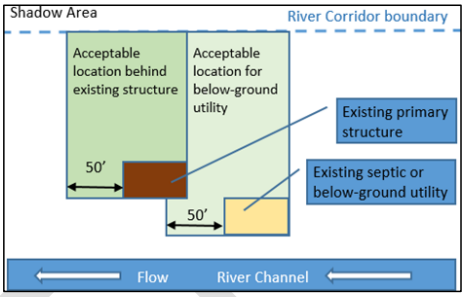
b. **Down River Shadow:** An addition to an existing habitable structure, or an accessory structure that is adjacent to an existing structure, shall be located in the shadow area directly behind and further from the channel than the existing structure, or within 50 feet to the downstream side and no closer to the top of bank. Below-ground utilities may also be placed within the same shadow dimensions of an existing below-ground system (see Figure 9.4).

Figure 9.4 – Shadow Area Development Standard



3. River Corridor Performance Standard[3]

a. Proposals that do not meet the infill or shadowing criteria in must demonstrate to the Planning Commission and/or Board of Adjustment the development will:
   i. not be placed on land with a history of fluvial erosion damage or be imminently threatened by fluvial erosion;
   ii. not cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions; and
   iii. not result in an immediate need or anticipated future need for stream channelization solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.

b. Proposals that meet the infill or shadowing criteria in Section 9.6 are presumed to meet the River Corridor Performance Standard. However, The Planning Commission and/or Board of Adjustment may require an applicant to demonstrate that a proposal meets the River Corridor Performance Standard if there is a concern that the proposed development is at particular risk from fluvial erosion or may increase fluvial erosion, based on location or past flood damage.

c. The Planning Commission and/or Board of Adjustment may request or consider additional information to determine if the proposal meets the River Corridor Performance Standard, including:
   i. a description of why the shadowing and infill criteria in Section 9.6 cannot be met;
   ii. data and analysis from a consultant qualified in the evaluation of river dynamics and erosion hazards;
   iii. Comments provided by the DEC Regional Floodplain Manager on whether the proposal meets the River Corridor Performance Standard.

C. **Development in Both the Special Flood Hazard Area (SFHA) and River Corridor.** Where development

[3] Depending on community settlement patterns and development plans, some communities may consider removing the river corridor performance standard to create a more restrictive bylaw that is easier to administer

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is located in both the Special Flood Hazard Area and the River Corridor, and shall meet the standards of both areas, the most restrictive development standard shall take precedence.

D. **Prohibited Development.** Except as exempted in this article, the following development is prohibited:

1. **Special Flood Hazard District.**
   a. Fully enclosed areas below grade on all sides, including below grade crawlspaces and basements.
   b. New critical facilities.
   c. New encroachments in the Floodway, including accessory structures, except for minor improvements[4] to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, river and/or floodplain restoration projects, or health and safety measures.
   d. Storage of any materials and salvage yards.

2. **River Corridor.**
   a. New critical facilities.
   b. Storage of any materials and salvage yards.

SECTION 9.7 Standards For Review of Nonconforming Structures

A. A nonconforming structure in the Flood Hazard Area Overlay District that has been substantially damaged or destroyed may be reconstructed in its original location only if it is rebuilt to comply with all requirements of the National Flood Insurance Program (if located in the Special Flood Hazard Area) and these regulations;

B. Nonconforming structures and uses shall be considered abandoned where the structures or uses are discontinued for more than 5 years. An abandoned structure shall not be permitted for re-occupancy unless brought into compliance with these regulations. An abandoned use shall not be permitted unless brought into compliance with these regulations.

SECTION 9.8 Variances in the Flood Hazard Area Overlay District

A. Variances may be granted in writing by the Planning Commission and/or Board of Adjustment only in accordance with all the criteria in 24 V.S.A. § 4469 after a public hearing noticed in accordance Section 2.4 and Section 2.5. If the proposed development is located within any Flood Hazard Overlay District, the proposal shall comply with 44 C.F.R. § 60.6.

1. Any variance issued in the Flood Hazard Area Overlay District shall not increase flood heights and shall inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the BFE increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.

[4] Minor improvements are those that would not affect base flood elevations, consistent with the provisions of FEMA P-480; Desk Reference for Local Officials: https://www.fema.gov/pdf/floodplain/nfip_sg_unit_5.pdf

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SECTION 9.9 Certificate of Occupancy

A. All development subject to review under this article shall also be subject to the requirements in Section 2.10 – Certificate of Occupancy.

B. Upon receipt of the application for a certificate of occupancy, the Zoning Administrator shall review the permit conditions and inspect the premises to ensure that:

1. Any required state and federal permits that have been received;

2. All work has been completed in conformance with the zoning permit and associated approvals; and

3. All required as-built documentation has been submitted to the Zoning Administrator (e.g. updated FEMA Elevation Certificate, dry floodproofing certificate, as-built volumetric analysis, or as-built floodway encroachment analysis).

SECTION 9.10 Violations

A. This article shall be enforced under the requirements of Section 2.11. A copy of the notice of violation shall be sent to the State NFIP Coordinator.

B. If all appeals have been resolved, but a violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended.

SECTION 9.11 Definitions

A. **Construction of Language.** Except where specifically defined herein, all words used in these regulations shall have their common meanings. The word "shall" means the action is mandatory; and "occupied" and "used," in the context of structures and vehicles, shall be considered as though followed by "or intended, arranged, or designed to be occupied or used."

B. **Definitions.** Definitions in this section apply only to the land development subject to the standards in this article. The following are Article 9 definitions:

Area of Special Flood Hazard: is synonymous in meaning with the term "special flood hazard area" for the purposes of these regulations.

Associated Transportation and Utility Networks: means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream.

Base Flood: means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the "100-year flood").

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Base Flood Elevation (BFE): is the elevation of the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

Basement: means any area of a building having its floor elevation below ground level on all sides, including crawlspaces.

BFE: see "Base Flood Elevation."

Channel: means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

Compensatory Storage: means a volume not previously used for flood storage and which shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the base flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream, or creek. These do not include state transportation networks or power generation and transmission utility networks subject to the Public Utility Commission jurisdiction, as those are exempt from municipal regulation and are regulated under the State Flood Hazard Area & River Corridor Rule; http://dec.vermont.gov/sites/dec/files/documents/wsmd-fha-and-rc-rule-adopted-2014-10-24.pdf

Common Plan of Development: means where a structure will be refurbished or constructed under one approved plan or permit, but in separate stages, phases, or in combination with other construction activities. Such work may be planned unit by unit and may take place at different times, on different schedules.

Construction trailer: means a vehicle which is: (1) built on a single chassis; (2) 500 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable; and (4) designed for use as a temporary office facility used to support management of a construction project, and not as a permanent structure.

Critical Facilities: means facilities that are vital to public health and safety, including police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities.

Designated Center: means a downtown, village center, new town center, growth center, or neighborhood development area designated pursuant to 24 V.S.A. Chapter 76A.

Development: means any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Encroachment: means activities or construction including fill, substantial improvements, and other development that may cause an increase in flood levels.

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Equilibrium Condition: means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.

Fill: means any placed material that changes the natural grade, increases the elevation, redirects the movement of flood water, or diminishes the flood storage capacity at the site. Temporary storage of material for less than 180 days is not considered fill.

Flood: means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; (b) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Fringe: means the portion of the special flood hazard area that is outside of the floodway but still inundated by the base flood (the flood having a one percent chance of being equaled or exceeded in any given year – 100-year floodplain).

Flood Hazard: means those hazards related to damage from flood-related inundation or erosion.

Flood Hazard Area: shall have the same meaning as "area of special flood hazard" under 44 C.F.R. § 59.1. "Area of special flood hazard" is synonymous with the term "special flood hazard area."

Flood Insurance Rate Map (FIRM): means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): means an examination, evaluation, and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation, and determination of mudslide (i.e., mudflow) and /or flood-related erosion hazards.

Floodplain: means any land area susceptible to being inundated by water from any source (see definition of "flood").

Floodproofing: means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface

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elevation more than one foot at any point. Please note that flood hazard areas and floodways may be shown on a separate map panels.

Fluvial Erosion: means the erosion or scouring of riverbeds and banks during high flow conditions of a river. Fluvial erosion is most likely to occur within the river corridor.

Functionally Dependent Use: means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Grading: means the movement or replacement of topsoil or other material originating on the site and within the hazard area. Grading results in minor or no changes in topographic elevations. If new material is brought from outside the hazard area and such new material is not offset with an equal or greater removal of material from the portion of the site within the hazard area, the new material shall be considered "fill" and shall not be considered grading.

Historic Structure: means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Infill Development: means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in an area that was not previously developed but is surrounded by existing development.

Letter of Map Change (LOMC): is a letter issued by FEMA officially removing a structure or lot from the flood hazard area based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area. A LOMC can include a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), Letter of Map Revision based on Fill (LOMR-F), or a Letter of Map Revision for a Floodway (LOMR-FW).

Lowest Floor: means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. § 60.3.

National Flood Insurance Program: means the National Flood Insurance Program under 42 U.S.C. chapter 50 and implementing federal regulations in 44 C.F.R. parts 59 and 60. The National Flood Insurance Program aims to reduce the impact of flooding on private and public structures. It does so by providing affordable insurance to property owners in communities that adopt and enforce floodplain

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management regulations. These efforts help mitigate the effects of flooding on new and improved structures.

Natural and Beneficial Floodplain Functions: means the functions associated with the natural or relatively undisturbed floodplain that includes moderating flooding, retaining flood waters, and reducing erosion, sedimentation and flood related damage. Ancillary beneficial functions include support of ecosystem services such as wildlife habitat, water quality, and recharge of ground water.

New Construction: means structures for which the start of construction commenced on or after the effective date of these regulations and includes any subsequent improvements to such structures.

Nonconforming Structure: means a structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. Structures that were in violation of the regulations in effect at the time of their creation, and remain so, remain violations and are not nonconforming structures.

Nonconforming Use: means use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Non-residential: includes: businesses, churches, schools, nursing homes, pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, industrial structures, and warehouses.

Person: means an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

Public Water Access: means a public access to a water of the State and, except for toilet facilities, shall not include structures as defined in these regulations.

Recreational Vehicle: means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Redevelopment: means construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other development in a previously developed area. The term includes substantial improvements and repairs to substantially damaged buildings.

Replacement Structure: means a new building placed in the same footprint as the pre-existing building and does not include a change in use.

River: means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches which experience perennial flow. "River" does not mean constructed drainageways, including water bars, swales, and roadside ditches.

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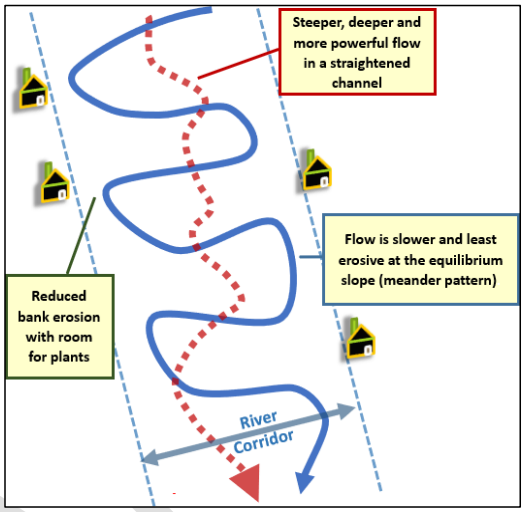
River Corridor: means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources in accordance with river corridor protection procedures. (10 V.S.A. § 1422).

Figure 9.5 – River Corridor



Special Flood Hazard Area: is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of these regulations, the term "area of special flood hazard" is synonymous in meaning with the phrase "special flood hazard area." This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by FEMA. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of special flood hazard areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

Start of Construction: for purposes of floodplain management, determines the effective map or bylaw that regulated development in the special flood hazard area. The "start of construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storage: means the aggregation of materials, items, or objects whether natural or human-made; that is kept as a stockpile, collection, or inventory; where individual materials from the stockpile, collection or inventory may change, but where the general footprint of the stored materials continues to be used for the same purpose; whether set upon the land or within a container, structure, or facility; and that would not otherwise be in compliance with these development standards.

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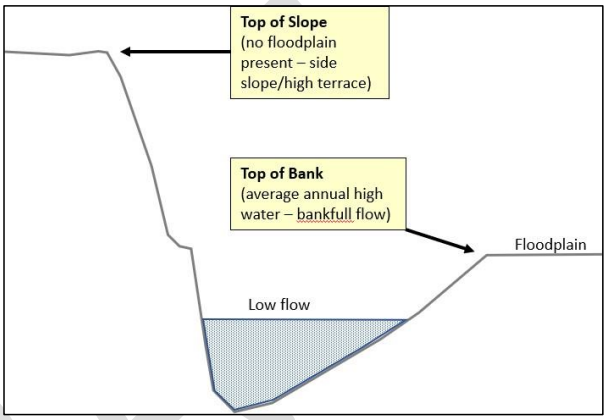
Structure: means a walled and roofed building, as well as a manufactured home, including gas or liquid storage tanks.

Substantial Damage: means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years. For further guidance, see FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference: https://www.fema.gov/media-library/assets/documents/18562 or over the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

Figure 9.6 – Top of Bank and Top of Slope



Top of Bank: means the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.

Top of Slope: means a break in slopes adjacent to steep-banked streams that have little or no floodplain; or a break in slope where the side slopes adjacent to an incised, or deeply cut, channel meet floodplains that have been abandoned or are undergoing abandonment.

Violation: means the failure of a structure or other development to be fully compliant with these regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. § 60.3 is presumed to be in violation until such time as that documentation is provided.

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Watercourse: means any perennial stream and shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

Wet-floodproofing: means permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding by allowing water to enter the structure in accordance with Technical Bulletin 7 published by FEMA. https://www.fema.gov/media-library/assets/documents/3503

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Article 10 – Definitions

SECTION 10.1 Applicability, Terms and Uses

A. Except where specifically defined herein or in the Act, all words in these regulations shall carry their customary meanings.

B. The words and terms used in these Regulations shall be construed as follows:

1. The specific requirement takes precedence over a general requirement;

2. The present tense includes the future tense;

3. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary;

4. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for;"

5. The word "shall" is mandatory; the word "may" is permissive;

6. The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual, unless otherwise specifically defined herein;

7. The word "lot" includes "parcel."

C. Any interpretation of words or terms by the Zoning Administrator may be appealed to the Board of Adjustment for a declaratory ruling. The Board shall publish and update from time to time such rulings of interpretation, to ensure consistent and uniform application of these zoning regulations.

D. Definitions in Article 9 shall take precedence over all other definitions pertaining to land development in the Flood Hazard Area Overlay District.

SECTION 10.2 Definitions

Accessory Structure: A structure, which is incidental and subordinate to the principal structure and is located on the same lot. Examples of accessory structures include patios, permanent swimming pools, unattached garages, tool sheds, workshops, unattached decks and gazebos. See Section 5.3.

Accessory Use: A use, which is incidental and subordinate to a principal use located on the same lot.

The Act: The Vermont Municipal and Regional Planning and Development Act, Title 24, Chapter 117, Vermont Statutes Annotated as most recently amended.

Agricultural Housing: A dwelling whose occupancy is restricted to farm workers and their families or seasonal/migrant agricultural workers. Not considered a single household dwelling use.

Deleted: this bylaw

Deleted: Administrative Officer

Deleted: Accessory Use/Structure¶
An accessory dwelling unit that is located within or appurtenant to an owner occupied single-family dwelling shall be a permitted use. An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:¶
1) The property has sufficient wastewater capacity¶
2) . The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.¶
3) Applicable setback, coverage and parking requirements specified by the bylaws are met.¶
4) . The owner occupies either the primary dwelling or accessory dwelling.¶
5) A use or structure which is incidental and subordinate to the principal use or structure and located on the same lot such as patios, swimming pools, porches, garages, tool sheds and the like.¶
6) . A structure used for dwelling purposes shall not be considered an accessory structure except in the case of an operating farm where the farmhouse and customary dwellings for farm laborers may be considered accessory to the agricultural use.

Deleted: Affordable Housing¶
Housing that is owned or rented by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, or rent, is not more that 30 percent of the household's gross annual income. Housing specifically designed and established to meet the needs of households at or below the median income for the county, at costs (excluding utilities) which do not exceed twenty-eight percent (28%) of the gross household income. Affordable housing units are limited to rental or owner-occupied dwelling units intended for long-term affordability through limited equity housing cooperatives, perpetually restricted housing (e.g. housing or community land trust projects), federal and state affordable or subsidized housing programs, or other similar legal mechanisms.¶
¶
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Agribusiness¶
Agricultural use structures and land primarily used for cultivating the soil, producing crops (including forest products) or raising livestock, including the sale of farm crops, horticultural products, livestock, or forest products raised on the property are uses considered to be part of agribusiness. Agribusiness does not include slaughterhouses.…

Agriculture: Land or structures primarily used for cultivating soils, producing crops, or raising livestock; orchards and maple sugar production; the storage, processing or sale of products raised on the premises; or as otherwise defined by the Commissioner of Agriculture, Food and Markets.

Bed and Breakfast: A single household dwelling designed to room and board persons on a nightly, weekly, or seasonal basis, accommodating not more than eight (8) guests in addition to the principal occupants who shall reside on premise. Central dining and food preparation facilities may be provided sufficient to serve registered guests; cooking facilities shall not be provided in individual guest rooms.

Boundary Line Adjustment: A division of land for the purpose of adjusting boundaries between adjacent lots where no new lot is created. A boundary line adjustment shall not create a nonconforming lot. A boundary line adjustment shall be considered a subdivision.

Business Services: Includes banks, consulting firm, insurance or real estate agency, barbershop, beauty parlor, laundry, photographic studies, and similar establishments providing services (not goods or manufacture) to individuals, institutions, farms, industries or other businesses, where such services do not qualify as home occupations.

Campground: A place or business providing for camping vehicles access and accommodations for camping purposes where money or other valuable consideration is exchanged for such use.

Camping Vehicle: Means travel trailer, tent trailer, motor home, camper trailer, truck camper or any other device or conveyance so constructed as to permit its ready transport on public highways, and designed as temporary living/sleeping quarters. A camping vehicle is in no way included under the Mobile Home definition.

Child Care Facility: A state registered or licensed establishment operated as a business or service on a regular or continuous basis, whether for compensation or not, with a primary function of protection, care, and supervision of children.

Child Care Home: A state registered or licensed child care business serving 6 or fewer children on a full time basis and up to 4 additional children on a part time basis, conducted within a single family dwelling by a resident of that dwelling.

Club: A building or use catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal, or other non-profit purposes.

Commercial Indoor Recreation Facility: Includes indoor bowling alleys, theaters, pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation.

Commercial Outdoor Recreation Facility: Includes golf courses, golf driving, trap, skeet, or archery ranges, swimming pool, skating rink, tennis court, riding stable, park beach, recreation stadium, skiing area, campgrounds, and similar places of outdoor commercial recreation.

Conservation Lot: A lot that is part of a Planned Unit Development and that shall only be used for agricultural, forestry, and/or recreational uses in perpetuity.

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Deleted: Building¶
A structure designed, built or used as a shelter for persons, animals, or property. Buildings shall include lunch wagons, travel trailers, mobile homes, etc. when sited in such a manner that they are not readily movable.¶
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Deleted: professional offices or personal service establishments …

Deleted: Camp/Cabin¶
A hunting camp, hut, shed or similar simple structure used to shelter people from the weather for a hunting or vacation weekend. May not be used as a permanent dwelling, and the owner or lessee may not use the dwelling to establish residency in Fairfield. A camp or cabin is differentiated from a seasonal dwelling, which must have the same septic system as a permanent dwelling.¶
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Deleted: A place or business providing tenting or camping vehicle accommodations for commercial purposes, including travel trailer parks and the like.¶

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Commercial¶
An activity involving the provision of facilities, goods or services (other than by municipal, state or federal governments) to others in exchange for payment of a purchase price, fee, contribution or other object or consideration having value.…

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Conservation Resources: Farmland, land with prime and statewide agricultural soils, and steep slopes greater than 15% grade. See Section 8.4.

Construction: Exterior substantial improvements or new assembly or placement of a structure on a site, including any related site preparations, excavation and grading.

Driveway: An access serving three (3) or fewer parcels.

Dwelling, Accessory: An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single household dwelling, that is clearly subordinate to a single household dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. See Section 6.2.

Dwelling, Multi-Household: A building containing three (3) or more dwelling units for households living independently of each other. This may include condominiums, apartments, cooperatives, and other forms of multiple household housing, but does not include hotels or motels.

Dwelling, Seasonal: A dwelling unit, which is not the primary residence of the owner or occupant and is occupied only on a part-time or seasonal basis. This definition shall include any dwelling which is occupied six (6) months or less over a twelve (12) month period of time, including weekends; any dwelling which lacks one or more of the basic amenities or utilities required for year-round or all-weather occupancy, including a winterized water system, insulated walls and roof, a heating source, and/or an adequate wastewater system; and/or any dwelling which is specifically permitted as a seasonal dwelling. The conversion or upgrade of a seasonal dwelling for year-round use shall meet the requirements under Section 6.14.

Dwelling, Single Household: A single-unit structure intended for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation. A group or community care home serving not more than six persons who are developmentally disabled or physically handicapped (i.e.: state licensed class F or G group homes) shall be considered a single household dwelling (and shall be regulated in the same manner as a single household dwelling).

Dwelling, Two Household: A two-unit structure intended for habitation by two households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule.

Dwelling Unit: A structure or part of a structure designed or used as the seasonal or permanent living quarters for one or more household (one household domiciled per dwelling unit).

Earth Resource Extraction: A use that includes dredging, quarrying, or mining, for crushed and broken stones, limestone, sand, gravel, clay, topsoil, or other stones and nonmetallic minerals. It may include on-site processing such as crushing, grinding, washing or screening.

Elderly Housing: Housing specifically designed, built, operated and reserved for elderly residents (55 years and older), consistent with state and federal fair housing standards and requirements.

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Communications Facilities¶
Any structure and/or equipment which is used for the transmission, into the atmosphere or transmission and reception from the atmosphere, of radio frequency waves of a telecommunications provider, including any tower or structure on which such equipment is located, whether owned by the provider or some other entity, and also including any accessory structure located on the telecommunications property. This definition includes facilities for the broadcasting of radio communications. If no higher than 35 feet, amateur (ham) radio; citizens band radio; local business radio dispatch; and personal use antennae are exempt from this definition.¶
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Deleted: Development¶
The division of a parcel of land into two or more parcels; new construction, substantial improvement, replacement or relocation of any structure; enlargement of any mining excavation or landfill; and any change in the use of any structure, or land, or extension of use of land (see also substantial improvement and "Land Development" in the Act. Section 4303(3).

Moved (insertion) [7]

Deleted: require a zoning permit under all applicable provisions of these bylaws, including permit allocation provisions

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Deleted: and the owner or lessee may not use the dwelling to establish residency in Fairfield.

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Deleted: For the purpose of this definition, a "family" shall mean one or more persons living as a household (dwelling) unit, but not including individuals or groups occupying rooming and boarding houses, clubs, motels or hotels. A group or community care home serving not more than six persons who are developmentally disabled or physically handicapped (i.e.: state licensed class F or G group homes) shall be considered a single family dwelling (and shall be regulated in the same manner as a single family dwelling). ...

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Deleted: Within the two village boundaries, elderly housing will not be subject to the permit allocation system. The conversion of elderly housing for sale or lease on the ...

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Excavation: Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns which substantially affects adjacent properties. Common agricultural tillage, ground care, gardening and excavations in cemeteries shall be considered excavation.

Fall Zone: The setback required in all directions around a telecommunications facility that is equivalent to no less than the height of the facility, including antennas or other vertical appurtenances.

Frontage: The boundary length of lot along public or private right-of-way, or other legally approved access.

Gas Station: Any structure, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale or installation of lubricants, tires, batteries, and similar accessories (see Section 6.7).

Group Home: A residential structure or boarding house which provides, for profit or otherwise, room, board and/or personal care to less than eight (8) residents who are unrelated to the operator. Pursuant to the Act (24 V.S.A. §4412(G)), a group home licensed or registered by the State of Vermont which houses less than eight (8) residents, who have a handicap or disability as defined by 9 V.S.A. §4501, shall be considered by right to constitute a permitted single household use of the property.

Height: The vertical distance measured from the average grade at the base of the structure to the highest point of such structure.

Home Industry: An occupation carried on in a dwelling which is customarily incidental and secondary to the use of that building for dwelling purposes, and which does not substantially alter the character thereof and is allowed subject to conditional use review (See Section 6.8)

Home Occupation: An occupation carried on in a dwelling which is customarily incidental and secondary to the use of that building for dwelling purposes, and which does not substantially alter the character thereof and is allowed by right (See Section 6.8).

Industrial Use: An Industrial use shall include both manufacturing and warehousing; specifically those activities involving the processing, fabrication, and/ or temporary storage of materials and products.

Interested Person: A party who may legally appeal to the Board of Adjustment or Superior Court, as prescribed by 24 V.S.A. §4464(b), generally including any of the following: (l) the party owning title to the subject property, or the designated agent of said party; (2) property owners in the immediate neighborhood per 24 V.S.A. §4463(b)(3); (3) any ten property owners in the Town who file a petition with the Board of Adjustment per 24 V.S.A. §4464(b)(4); (4) the Board of Selectmen of the Town, or of any adjoining town; (5) the Town Conservation Commission, if any; and (6) certain state agencies.

Junk: Old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.

Junk Yard: See Salvage Yard.

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Deleted: Essential Public Services¶
Included the construction or installation (by public utilities, municipal or other governmental agencies or private groups) of "local consumer" electric and telephone distribution lines, facilities for fire, police, highway and health services to the Town, or other similar equipment and accessories necessary for the furnishing of essential services. Also included are churches, convents and parish houses.¶
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Kennel: Any lot or premises operated by a commercial or non-profit entity, on which more than four (4) dogs, cats, or other household domestic animals are temporarily or permanently boarded.

Land Development: The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

Lodging Establishment: A building or buildings containing rooms which are rented (for commercial purposes) as sleeping units for transients, each sleeping unit consisting of, at least, a bedroom and use of a bathroom. Included are hotels, motels, tourist courts, cabins, motor lodges and the like.

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Commission and recorded in the Town land records.

Lot Area: Total area within the property line, excluding any part thereof lying within the boundaries of an existing or proposed street line.

Lot of Record: Any lot which individually, or as a part of a subdivision, has been recorded under the proper procedural steps in the office of the Town Clerk.

Maximum Lot Size: The largest area for which a new lot may be created.

Mixed Use: More than one principal use within a single principal structure or on a single lot.

Motor Vehicle and Equipment Sales and Service: An establishment providing sales and major servicing of automobiles, trucks, farm and construction equipment, and other motorized vehicles, including dealerships, body shops, vehicle and equipment repair shops, mobile home and camping vehicle sales/service establishments and the like.

Minimum Lot Size: The smallest lot area on which any land or building development, construction, alteration, addition to an existing structure, or change in use is permitted if also in conformance with all other provisions of these regulations.

Mobile Home: A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. (see also Mobile Homes in 10 V.S.A. §6201).

Mobile Home Park: A parcel of land, under single or common ownership or control, which is used (or is to be used) to accommodate more than two mobile homes. (See also Mobile Home Park, 10 V.S.A. §6201).

Non-Conforming Structure: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer 24 V.S.A.§4303(14)

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Deleted: The division of a parcel of land into two or more parcels; new construction, substantial improvement, replacement or relocation of any structure; enlargement of any mining excavation or landfill; and any change in the use of any structure, or land, or extension of use of land (see also substantial improvement and "Land Development" in the Act. Section 4303(3).

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Junk Yard¶
Land used for the outdoor collection, storage, or sale of waste metal or other discarded materials, or for the collection, wrecking, dismantling, storage, salvage or sale of machinery or vehicles which are not inspected and not n operating condition (vehicles used in farm operation exempt). An area in excess of two hundred (200) square feet shall be deemed a "junk yard" if so used.¶
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Deleted: A parcel of land occupied or to be occupied by only one principal building and the accessory building or uses customarily incidental to it, having sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a maintained public road or other legal access as approved by the Planning Commission. A lot may consist of: (l) a single lot of record; (2) a portion of a lot of record; (3) a combination of complete lots of record and/or portions of lots of record; (4) a parcel of land described by metes and bounds.

Deleted: Lot Frontage¶
The boundary length of a lot on a maintained public road or other approved access.¶
¶
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Meadow¶
An area of land of any size on which grass is cut for any purpose, and/or in accordance with Fairfield tradition.¶

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Non-Conforming Use: Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer 24 V.S.A. §4303(15)

Non-Conforming Lot: Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. §4303(13).

Open Space: The undeveloped portion of any development parcel(s) which is not occupied by streets, rights of way, driveways, or parking spaces and which is set aside, dedicated, or designated for the perpetual use for recreational, agricultural, forestry or conservation uses.

Parent Parcel: The original parcel from which other lots are subdivided.

Parking Space: An off-street area to be used exclusively as a temporary storage space for one motor vehicle at a time.

Planned Unit Development: One or more lots, tracts, or parcels of land to be developed as a single entity and is designed and planned to enable clustering of lots and development, the efficient use of land, to facilitate the adequate and economic provision of streets and utilities, and to preserve the natural and scenic qualities of Fairfield. The development may include a mix of land uses.

Plat: A site development plan map including all of the information required and prepared for filing, under the proper procedural steps, with the Town Clerk (see Section 7.5 and 27 V.S.A. §1403).

Primitive Camp: A hunting camp, hut, shed or similar simple structure used to shelter people from the weather for a hunting or vacation weekend. May not be used as a year-round dwelling or a seasonal dwelling.

Principal Structure: A structure in which is conducted the principal use(s) of the lot.

Principal Use: A use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures/uses constitutes all structures and uses of said lot.

Public Facility: Includes the erection, construction and alteration in facilities or nature of use (by any municipal, state or federal government, public utility or other quasi-public institutions) of public buildings, electric transmission lines, recreation facilities, water supply and sewage treatment facilities, and including public and private schools or other educational institutions certified by the Vermont Department of Education.

Residential Care Home: A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property.

Rooming House: Includes rooming and boarding houses not to exceed five rental units.

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Deleted: or Parcel¶

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Deleted: of not less than 200 square feet exclusive of loading, access and maneuvering areas, landscaped areas, etc.

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¶
Places of Worship¶
A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque or other such place for worship and religious activities.¶

Deleted: ¶

Deleted: A proposal to The Planning Commission for a unique and innovative project to provide a different arrangement of housing units than otherwise possible under this bylaw. (see also the Act, Section 4407(3) and Section 3.4(O) herein).¶
¶ ...

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Deleted: Plot Plan¶ ...

Deleted: permanent

Deleted: , and the owner or lessee may not use the ...

Deleted: cabin is differentiated from a

Deleted: , which must have the same septic system as a ...

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Deleted: ¶

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Deleted:

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Deleted: Recreation-Indoor¶ ...

Deleted: Residential Lodging

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Deleted: (See also lodging establishment.)

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Restaurant: Premises where food and drink are prepared, served and consumed primarily within the principal structure, including bars and lounges.

Retail Sales: Includes shops and stores for the sale of small retain goods, such as grocery, hardware and general stores and includes small repair shops.

Road: A vehicular way which affords the principal means of access to abutting properties, and which serves four (4) or more non-agricultural parcels, which is constructed within the boundaries of an officially deeded or dedicated private right-of-way or easement, or an officially deeded or dedicated and accepted public right-of-way.

Salvage Yard: Land used for the outdoor collection, storage, or sale of waste metal or other discarded materials, or for the collection, wrecking, dismantling, storage, salvage or sale of machinery or vehicles which are not inspected and not in operating condition (vehicles used in farm operation exempt).

Setback: The perpendicular distance from a road, lot line, boundary or other delineated feature (e.g., a stream bank or channel, shoreline, or wetland area), to the nearest part of a building, structure, or parking area on the premises. In the case of a public or private highway, the distance shall be measured from the center line of the highway right-of-way (front setback).

Sign: Any display or representation used or placed as an announcement, direction or advertisement. The word "placed" for the purpose of this definition shall include erected, constructed, or otherwise fastened, affixed or made visible in any manner whatever.

Structure: Anything constructed, erected or placed and which requires a fixed location on the ground in order to be used. Included are buildings, signs, garages, carports, porches, patios, swimming pools, and any other outbuildings and building features. Not included are sidewalks, driveways, fences and temporary docks or floats.

Subdivider: Any person, firm, corporation, partnership, or association, or any of these entities working in cooperation, or his or her or their authorized agent who shall lay out for the purpose of sale or development, any subdivision or part thereof as defined herein.

Subdivision: The division of any parcel of land into two (2) or more parcels for the purposes of sale, conveyance, lease, or development. The term "subdivision" includes the adjustment of boundaries between two or more existing parcel and subdivision amendments.

Telecommunications Facility: Any structure and/or equipment which is used for the transmission, into the atmosphere or transmission and reception from the atmosphere, of radio frequency waves of a telecommunications provider, including any tower or structure on which such equipment is located, whether owned by the provider or some other entity, and also including any accessory structure located on the telecommunications property. This definition includes facilities for the broadcasting of radio communications. If no higher than 35 feet, amateur (ham) radio; citizens band radio; local business radio dispatch; and personal use antennae are exempt from this definition.

Town Plan: The Fairfield Town Plan as most recently adopted.

Town Road: A road maintained by the town, classified as class 3, or better.

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Deleted: Town of Fairfield, Vermont –

Deleted: **Residential Use**¶
Includes single-family, two-family, and multi-family dwellings.¶
¶

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Deleted: Includes diner, bar, lounge, nightclub, and similar establishments.…

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Deleted: **Rights of Way, Public**¶
Public Rights of Way shall be classified in two categories. ¶
1) Public Rights of Way I provide access by means of public highways, including State highways, Class III or better. ¶
2) Public Rights of Way II provide access by means of public highways or rights of way, Class IV or less. Class IV town highways are all other town highways, including trails and pent roads, which are not Class III or better. The Selectmen shall determine which highways are Class IV town highways. The town will not provide improvements or maintenance to any Class 4 roads not presently being …

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Deleted: **Seasonal Dwelling**¶

Moved up [7]: A dwelling unit, which is not the primary

Deleted: ¶ …

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Deleted: The nearest distance between a public or privat …

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Deleted: **Sign Area**¶ …

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Deleted: Division of any lot or parcel of land, after the …

Deleted: **Substantial Improvement**¶ …

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Two-Lot Subdivision: Any subdivision resulting in two (2) new lots.

Undue Adverse Effect: See Figure 3.2.

Use: The specific purpose for which land or a building is arranged, designed, or intended, or for which either land or a structure is or is intended to be occupied.

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Yard¶
An open space abutting all year-round streams and property lines of a lot (except road frontage), unoccupied by a structure from the ground upward except as otherwise provided in these regulations. The required yard distances shall be determined in the same manner as the setback (See setback.)¶
¶

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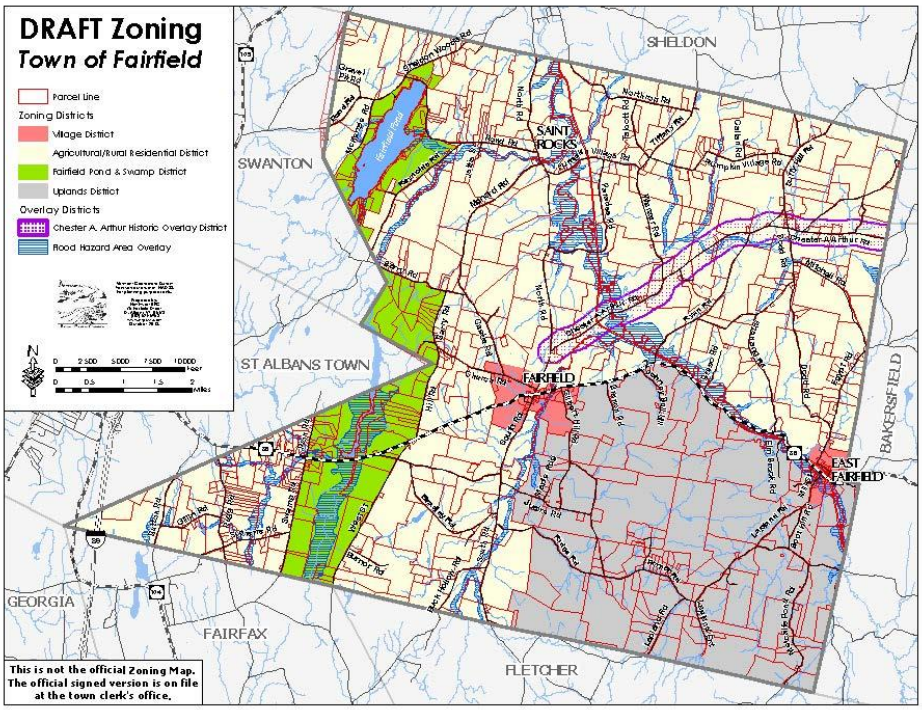
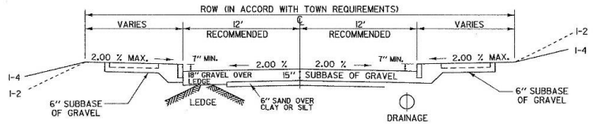
Fairfield Zoning Map

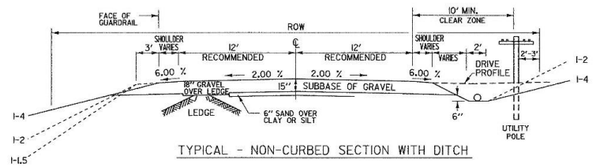


A-76 Standard

ROADWAY TYPICALS

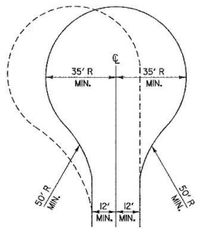


TYPICAL - CURBED SECTION WITH 5' SIDEWALKS

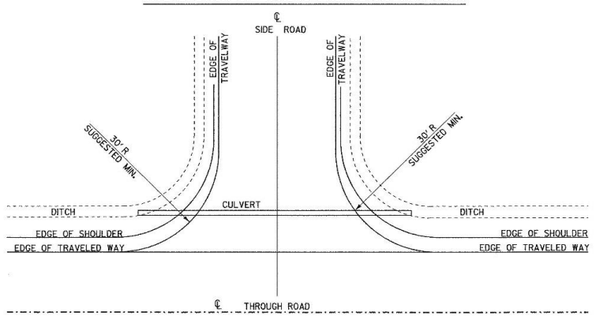


TYPICAL - NON-CURBED SECTION WITH DITCH

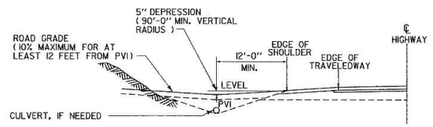
CUL-DE-SAC FOR DEAD END ROADS



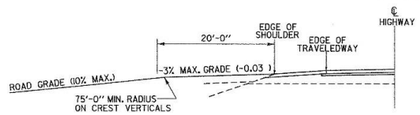
INTERSECTION OF THROUGH ROAD AND SIDE ROAD



FOR THROUGH ROADS WITH SIDEWALKS & CURBING, SEE STANDARDS C2 & C3.
PROVIDE DROP INLETS ON EACH SIDE OF SIDE ROAD AT INTERSECTION AS NECESSARY.



PROFILE OF INTERSECTION (CUT SECTION)
SHOWING 5" DEPRESSION



PROFILE OF INTERSECTION (FILL SECTION)

GENERAL NOTES FOR LOCAL ROADS

1. SUBBASE, SAND CUSHION AND SUBGRADE SHOULD BE CONSTRUCTED AND COMPACTED TO THE DIMENSIONS SHOWN IN ACCORDANCE WITH VAOT STANDARD SPECIFICATIONS FOR CONSTRUCTION. WHERE LOCAL ORDINANCES HAVE BEEN ADOPTED RELATIVE TO ROAD DIMENSIONS AND CONSTRUCTION, THEY SHOULD GOVERN. THE DIMENSIONS SUGGESTED ARE INTENDED TO BE APPLIED ONLY IN LOW TRAFFIC VOLUME CONDITIONS (AVERAGE DAILY TRAFFIC LESS THAN 250 VEHICLES PER DAY), AND WHERE HEAVY TRUCK TRAFFIC IS INFREQUENT.
2. EXPOSED EARTH SLOPES SHOULD BE SEEDED, FERTILIZED AND MULCHED IN ACCORDANCE WITH VAOT STANDARD SPECIFICATIONS FOR CONSTRUCTION.
3. DRAINAGE:

   ROADWAY - 18" MINIMUM DIAMETER, OF METAL, REINFORCED CONCRETE OR POLYETHYLENE PIPE, WITH DROP INLETS OR CATCH BASINS, AS REQUIRED. HYDRAULIC ANALYSIS TO DETERMINE APPROPRIATE PIPE DIAMETER IS RECOMMENDED FOR ALL LIVE STREAM CROSSINGS AND ELSEWHERE WHERE LARGE STORM FLOWS MAY BE EXPECTED.

   DRIVES - 15" MINIMUM DIAMETER, OF METAL, REINFORCED CONCRETE OR POLYETHYLENE PIPE.

   UNDERDRAIN - 6" MINIMUM DIAMETER, OF METAL, PVC PLASTIC OR POLYETHYLENE PIPE.

   LOCATION, DEPTH AND CONSTRUCTION DETAILS SHOULD FOLLOW PRACTICE SPECIFIED BY LOCAL ORDINANCE OR THE VAOT STANDARD SPECIFICATIONS FOR CONSTRUCTION.
4. HORIZONTAL CURVATURE - THE FOLLOWING WILL APPLY:

DESIGN SPEED	MINIMUM RADII RURAL (1)	MINIMUM RADII URBAN (2)
25 MPH	185 FT.	180 FT.
30 MPH	275 FT.	300 FT.
35 MPH	380 FT.	460 FT.
40 MPH	510 FT.	675 FT.
45 MPH	660 FT.	945 FT.
50 MPH	835 FT.	1280 FT.

(1) BASED ON CROSS SLOPE = 6.0 %
(2) BASED ON MAINTAINING NORMAL CROWN SECTION THROUGHOUT CURVE ; EFFECTIVE CROSS SLOPE = 2.0 %

FOR OTHER SUPERELEVATION RATES, SEE CHAPTER III OF THE AASHTO "A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS" FOR APPROPRIATE CURVE RADII.

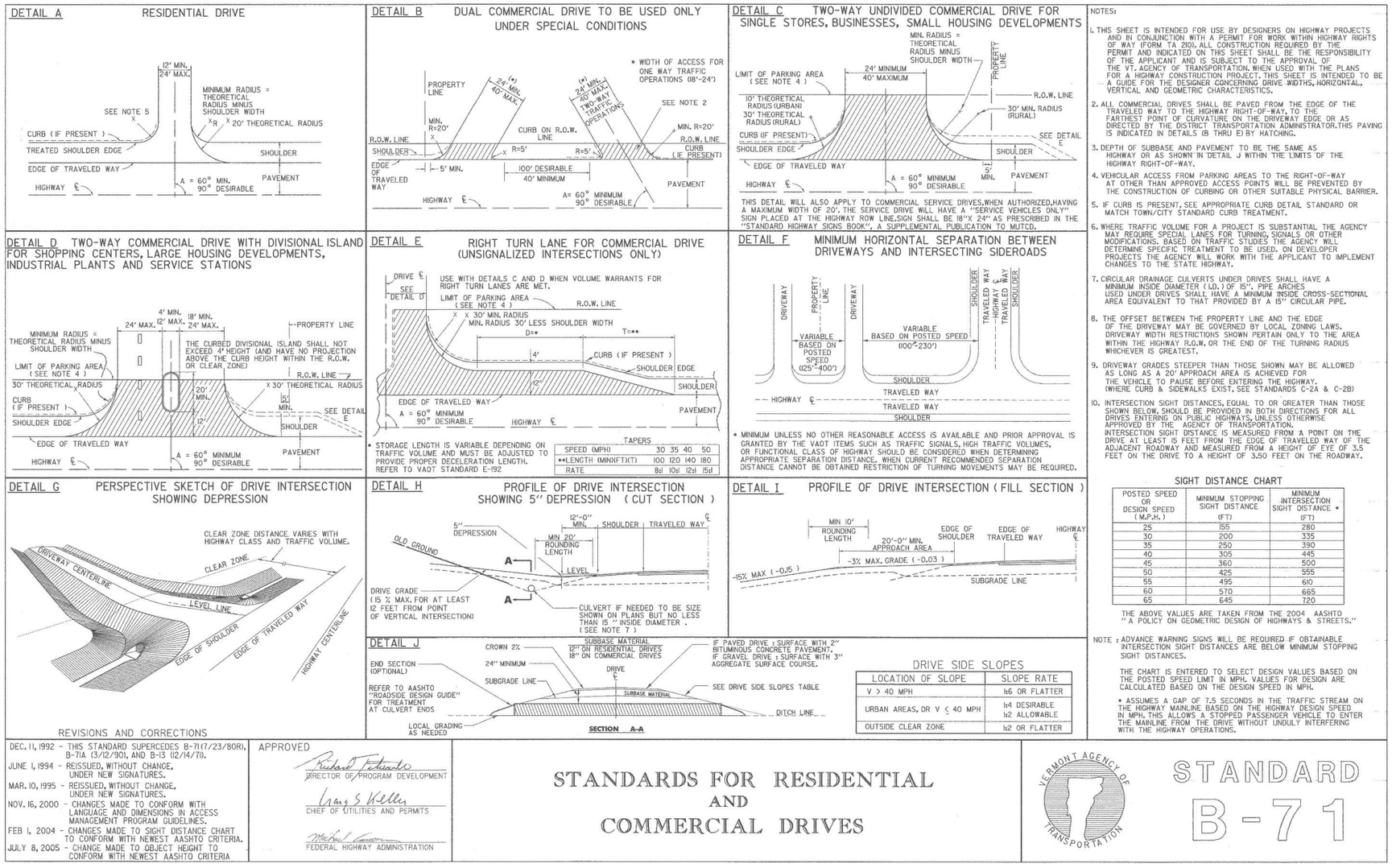
5. GRADIENT OF ROADS - 10% MAXIMUM GRADE SUGGESTED, ALTHOUGH GRADES UP TO 16 % MAY BE ALLOWED IN MOUNTAINOUS TERRAIN.
6. GUARD RAIL - PROVIDE GUARD RAIL WITH TREATED WOOD OR STEEL POSTS, OF A DESIGN IN ACCORDANCE WITH VAOT STANDARD SPECIFICATIONS FOR CONSTRUCTION, THE AASHTO ROADSIDE DESIGN GUIDE, AND VAOT STANDARD DRAWINGS. GENERALLY, WHERE SLOPES ARE 1:3 OR STEEPER, AND THE HEIGHT OF DROPOFF AT EDGE OF SHOULDER EXCEEDS 5', GUARD RAIL SHOULD BE INSTALLED. ALSO, WHERE SLOPES ARE 1:3 OR FLATTER, GUARD RAIL MAY NOT BE NEEDED IF THE AREA AT THE BOTTOM OF THE SLOPE IS FREE OF HAZARDS. THE LOCAL VAOT DISTRICT TRANSPORTATION ADMINISTRATOR MAY BE CONTACTED FOR ASSISTANCE.
7. PAVING - ROADS WITH GRADES EXCEEDING 7% SHOULD BE PAVED UNLESS WAIVED BY THE LOCAL GOVERNING BODY. FOR TRAFFIC VOLUMES GREATER THAN, OR EQUAL TO, 250 VEHICLES PER DAY, OR WHERE HEAVY TRUCKS ARE COMMON, A PAVEMENT DESIGN SHOULD BE PERFORMED TO DETERMINE APPROPRIATE THICKNESSES OF SUBBASE AND PAVEMENT.
8. TRAVELED WAY AND SHOULDER WIDTHS - WIDTHS SHOWN ON THIS STANDARD ARE FOR LOW SPEED/LOW TRAFFIC VOLUME CONDITIONS. FOR ADDITIONAL GUIDANCE IN THE DESIGN OF LOCAL ROADS AND STREETS, SEE THE LATEST EDITION OF AASHTO'S PUBLICATION "A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS", OR THE VAOT "VERMONT STATE STANDARDS".
9. UTILITY LINE LOCATION TO CONFORM TO LOCAL REQUIREMENTS.

REVISIONS AND CORRECTIONS
JAN. 21, 1971 - ORIGINAL DATE OF ISSUE
MAR. 12, 1971 - DIMENSIONS CHANGED ON TURN-A-ROUND
JULY 13, 1973 - INTERSECTION PROFILES ADDED
DEC. 7, 1993 - REVISED TO REFLECT CURRENT DESIGN CRITERIA
JUNE 1, 1994 - REISSUED, WITHOUT CHANGE, UNDER NEW SIGNATURES.
MAR. 10, 1995 - REISSUED, WITHOUT CHANGE, UNDER NEW SIGNATURES.
MARCH 3, 2003 - REVISED TO REFLECT CURRENT DESIGN CRITERIA

APPROVED
DIRECTOR OF PROGRAM DEVELOPMENT
CHIEF OF UTILITIES
FEDERAL HIGHWAY ADMINISTRATION

STANDARDS FOR TOWN & DEVELOPMENT ROADS

VERMONT AGENCY OF TRANSPORTATION

STANDARD A-76

B-71 Standard