

Notice of Public Hearing

Town of Fairlee Planning Commission

On May 25, 2023 at 6:30 PM the Fairlee Planning Commission will hold a public hearing to present and take public comment on amendments to the Fairlee Unified Development Bylaw that will be placed on the ballot for a special election to be held July 11, 2023 in person and via zoom, materials and link are on the Town website or through the Zoning Office. There will be a subsequent public hearing held by the Fairlee Selectboard not earlier than 20 days after this hearing and not later than 20 days prior to the special election per VSA T 24 §4411, §4419, §4442, §4444. Sections amended as follows:

§2.1 and §2.2, delete Lake Area and substitute Lake Fairlee and Lake Morey Areas change Item G to Rural Resource Area. Designated Village Center, Lake Morey Watershed Area and Receiving Area added as overlay districts.

§3.1.6 (A) change description of the zone to meet new classification per change in item G above.

§3.1.1 Village Area add arts and cultural facilities to the permitted use list, apartment buildings to the conditional use list, increases building height to 40 feet.

§3.1.2 Interchange Area adds primary retail between 6,501 to 10,000 square feet as a conditional use.

3.1.4 Lake Area proposed division into separate districts for Lake Morey and Lake Fairlee.

§3.1.7 delete current language for Industrial Area for new provisions for Rural Resource Area.

§4.14 Accessory Dwellings, inclusionary language added per new state regulations under S.237 liberalizing regulations concerning accessory dwelling units.

§4.4 reduces the common area from 1000 to 500 square feet per unit for multi-family dwellings.

§4.7 changes multi-family parking requirement from 1 per bedroom to 1 per unit.

§4.17 prohibits private helipads.

§5.3(A) limitations on the expansion of non-conforming dwellings in the Lake Fairlee and Lake Morey areas and performance standards for the conditional use permitting of short-term rentals.

Article VI Subdivision amendments delegate minor subdivision functions to the Zoning Administrator, brings plat submissions into compliance with state regulations, enables cluster development, density bonuses, and the transfer of lot creation rights to the receiving area.

Additions and changes to Article VIII definitions, arts and cultural facilities, cannabis substituted for the word marijuana and citation of town vote, community sewage disposal system, contamination, restructure of setback and dwelling terms, definition of heavy industrial as a use prohibited in the Town of Fairlee, change of liquor store from prohibited to conditional use, change in term AMP to DRB, definitions for townhouse and use, addition of short-term rental.

Mapping to delineate Land Use and Overlay Districts.

[Insert cover photo or image.]

FAIRLEE UNIFIED DEVELOPMENT UDB

ADOPTED:

August 14, 2018

Interim Amendments September 27, 2021

Interim Amendment Lake Morey Moratorium September 27, 2021

Interim Amendments January 24, 2022

Interim Amendments April 10, 2023

As Amended by the voters July 11, 2023

This document was prepared by the Fairlee Planning Commission and Fairlee Selectboard with the assistance of Two Rivers Ottauquechee Regional Planning Commission and funding from a Municipal Planning Grant from Agency of Commerce and Community Development.

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Article I. GENERAL PROVISIONS

§1.1 Enactment

In accordance with the Vermont Planning and Development Act, 24 V.S.A. §4401 (a), there are hereby established Zoning Regulations for the Town of Fairlee, Vermont. Hereafter, the *Unified Development Bylaw* will be referred to as the “UBD.”

§1.2 Intent

It is the intent of these regulations to provide for the efficient use of land and water resources in the Town of Fairlee, such as to promote and protect the public health, safety, and welfare of its citizens and to further the purposes established in §4410 of the Act.

§1.3 Title

This UDB shall be cited and known as the Fairlee UDB.

§1.4 Separability

The invalidity of any provision of these regulations shall not invalidate any other part.

Article II. ZONING DISTRICTS and OVERLAY AREAS

§2.1 Establishment of Zoning Districts and Overlay Areas

For the purposes of these regulations the following Zoning Districts are hereby established within the Town of Fairlee:

- A. Village Area**
- B. Interchange Area**
- C. Lakeshore Resort Area**
- D. Lake Fairlee Area**
- E. Lake Morey Area**
- F. Mixed Use Area**
- G. Residential Area**
- H. Rural Resource Area**

For purposes of these regulations the following **Overlay Areas** are hereby established within the Town of Fairlee:

- A. Village Center**
- B. Source Protection Areas**
- C. Water Service Area**
- D. Lake Morey Watershed Overlay Area**
- E. Flood Hazard Areas**
- F. Receiving Area**

§2.2 Purposes of Zoning Districts

The specific purposes of the Zoning Districts established in Article II are as follows:

- A. Village Area** – To provide a location for a dense mix of commercial, civic, and residential uses that sustain and improve the vitality of the community's core.
- B. Interchange Area** – To allow for a dense mix of multi-family housing, professional offices, primary retail, and other commercial uses.
- C. Lakeshore Resort Area** – To maintain and support the recreational value of the urban waterfront while allowing for planned resort and recreational development among existing residential uses.
- D. Lake Fairlee Area** – To maintain the existing low density rural residential while facilitating recreational access while protecting the character of the lake.
- E. Lake Morey Area** – To manage the increasing urban density of residential uses and mitigate its environmental impacts on water quality and recreational access.

F. Mixed Use Area – To provide a location for a mix of uses that benefit from access to US Route 5, including residential, home business and commercial uses to the exclusion of primary retail.

G. Residential Area – To provide areas for residential development with the densest development to be nearest to the Village Area with access to municipal water.

H. Rural Resource Area – To provide protection for intact forest blocks and wildlife corridors while allowing controlled development at an appropriate density.

§2.2.1 Zoning Map [Insert an updated map with a key.]

The location and boundaries of Zoning Districts are established under §3.1 and outlined on the official zoning map for Fairlee. The official zoning map is hereby made a part of these regulations together with all future amendments.

No amendment to this UDB that involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on a final version to be put for Town vote, signed by the Selectmen of the Town of Fairlee, and attested to by the Town Clerk. No changes of any nature shall be made to the official zoning map except in conformity with §4402 and §4403 of the Act. Regardless of the existence of copies of the map, which may from time to time be made or published, the official zoning map shall be in the office of the Town Clerk and shall be the final authority as to the current status of land and water areas. Regarding specifically the Flood Hazard Area, the map entitled Flood Insurance Rate Map (FIRM), Town of Fairlee, Vermont, and any revisions thereto, shall be considered the Official Flood Hazard Area Map.

§2.2.2 Interpretation of Zoning District Boundaries

If uncertainty exists with respect to the boundary on the official zoning map, the location of such boundary shall be determined by vote of the members of the Development Review Board (DRB) after a public hearing. In rendering its decision, the DRB shall interpret zoning district boundaries in a manner consistent with the intent and purpose of this zoning ordinance. Where boundaries outlined on the official map are at variance with the provisions of this ordinance the more restrictive interpretation or that imposing the higher standard shall govern.

§2.2.3 Application of Regulations

Except for maintenance, repair, or replacement of existing uses of land or structures that are permitted and conform to the requirements of their respective zoning districts, no building or structure or part thereof shall be erected, moved, or extended and no land, building, structure, or part thereof shall be occupied, used, or land subdivided unless in conformity with the regulations herein specified for the district in which it is located. **Note:** Even maintenance, repair or replacement, or ground disturbance may require a permit in some areas, particularly the Flood

Hazard Overlay Area, Lake Fairlee Area, Lake Morey Area, the Lake Morey Watershed Overlay Area, and Lake Shore Resort Area. For any work in these areas, consult the Zoning Administrator.

§2.3 Classification of Lots

For purposes of these regulations, lots are classified as follows:

- Class A Lot: Off-lot water supply and on-lot sewage disposal.
- Class B Lot: On-lot water supply and on-lot sewage disposal.

§2.4 Purposes of Overlay Areas

The specific purposes of the Overlay Areas established in Article II are as follows:

A. Village Center Overlay Area: The mapped area designated by the Vermont Agency of Commerce and Community Development that is subject to special revitalization programs and tax credits and that contains core community assets.

B. Source Protection Overlay Areas: The districts established to protect the quality of public water supplies and their source aquifers by minimizing contamination of vulnerable aquifers and preserving and protecting existing and potential sources of public drinking water supplies. These provisions have been prepared and adopted pursuant to the provisions of 24 V.S.A. Chapter 117 §4414(2).

C. Water Service Overlay Area: As defined on the official map, those areas served by the Town of Fairlee municipal water system. Minimum area of a lot serviced by municipal water supply is 20,000 square feet and is classified as a Class A lot.

D. Lake Morey Watershed Overlay Area: Lake Morey is a special resource and will be damaged through nutrient loading from runoff and shoreline erosion within its watershed. Overlay protections in this watershed area will reduce the likelihood of incursions of such nutrients, which would be expensive to remove from the lake, if at all possible. Nutrient loads can cause harmful algal blooms reducing water quality.

E. Flood Hazard Area: To ensure public health, safety, and welfare during flood events; to limit the threat of property damage that flood events pose; to prevent increases in flooding caused by uncontrolled development of lands in the area; and to ensure continued participation in the Federal Flood Insurance Program. These areas are regulated to affect the purposes of 10 VSA Chapter 32 in accordance with the Vermont Planning and Development Act, 24 VSA Chapter 117, §4412 and are described in §7.1.4.

F. Receiving Area: These are designated areas that receive subdivision rights from the Rural Resource Area per §5.5.2 appropriate to waiving of minimum lot sizes to 1 acre on Class B lots.

Article III. ZONING DISTRICT and OVERLAY AREA REGULATIONS

§3.1 Zoning District Regulations

§3.1.1 Village Area

A. Description

The Village Area, according to the zoning map, runs the length of US Route 5 between the railroad frontage to the east and Interstate 91 to the west. The Village Area runs from the north boundary of the Interchange Area north to the Palisades. The Village Area encompasses road frontages along VT Route 25A and running the length of US Route 5 between the railroad frontage to the east and Interstate 91 to the west and from the south boundary of the Interchange Area south to the intersection of Birch Meadow Road.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings and additions and uses.
2. Home occupation.
3. Residential accessory structures.

These uses shall be permitted upon site plan approval by the DRB and with an issuance of a Zoning Permit by the Zoning Administrator:

1. Primary retail 3,500 square feet or less. Second floor occupancy is required.
2. Professional offices and services.
3. Personal services.
4. Restaurant (70 seat maximum).
5. Apartment houses.
6. Home-based businesses or services.
7. Arts and cultural facilities.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Vehicle fuel sales.
2. Apartment buildings.
3. Single family dwellings, semi-detached.

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use.
2. Lot Frontage Minimum: 75 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum height for all structures: 3 full stories not more than 40 feet from street grade.

Class B Lots: *None in this zone.*

§3.1.2 Interchange Area

A. Description

Per the zoning map, the Interchange Area runs the length of Lake Morey Road east of I-91 and north on US Route 5 east of the railroad right-of-way to School Street, south to Adams Road on the west side of US Route 5, and south to parcel 09-00-15.11 on the east side of US Route 5 to include all lots in the zone with frontage on either US Route 5 and Lake Morey Road east of I-91.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings and additions.
2. Home occupation.
3. Residential accessory structures and uses.

These uses shall be permitted upon site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Primary retail of 6,500 square feet or less.
2. Professional offices and services.
3. Personal services.
4. Medical outpatient clinic.
5. Restaurant (100 seat maximum).
6. Apartment houses.
7. Apartment buildings.
8. Home-based business or service.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Vehicle fuel sales.
2. Single family dwelling, semi-detached.
3. Primary retail of 6,501 sq. ft. to 10,000 sq. ft.

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use.
2. Lot Frontage Minimum: 100 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum height all structures 40 feet from street grade.

Class B Lots: *None in this zone.*

§3.1.3 Lakeshore Resort Area

A. Description

Per the zoning map broadly described as the Lake Morey Resort and the Aloha Foundation camps located on the Lake Morey shoreline.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. Residential accessory structures and uses.
2. Ground disturbance.

These uses shall be permitted upon site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Hotel/motel.
2. Resort accommodations.
3. Golf course.
4. Outdoor recreation.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. One-family dwellings (year-round use).

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use.
2. Lot Frontage Minimum: 100 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum Height of all structures: 40 feet from any walkout grade.
6. Minimum Lakeshore Setback: 100 feet (per Vermont Shoreland Protection Act, 2015).

Class B Lots:

1. Lot Area Minimum: 40,000 square feet per principal use.
2. Lot Frontage Minimum: 100 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum Height of all structures: 40 feet from any walkout grade.
6. Minimum Lakeshore Setback: 100 feet (per Vermont Shoreland Protection Act, 2015).

§3.1.4 Lake Areas

§3.1.4.1 Lake Fairlee Area

A. Description

Per the zoning map and that area defined by the Lake Fairlee shoreline, 500' from the high-water mark of Lake Fairlee on the Vermont Route 244 road frontage, Quinibeck Road to the mean high water mark of Lake Fairlee and the Thetford town line.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings.
2. Home occupation (year-round dwellings only).
3. Residential accessory structures and uses, including accessory dwelling units.
4. Ground disturbance and clearing vegetation.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. Renovations that increase number of bedrooms, replace foundation, change building envelope size.
2. Short term rentals.

D. Land Area and Structural Requirements

Class B Lots: (all are Class B lots)

1. Lot Area Minimum: 2 acres.
2. Lot Frontage and Lake Frontage Minimum: 150 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Lakeshore setback 100 feet.
6. Maximum height all structures: 35 feet from any walkout grade.

§3.1.4.2 Lake Morey Area

A. Description

Lake Morey-Per the zoning map and defined as 500 feet from the mean high water mark of Lake Morey to the exclusion of that area zoned Lakeshore Resort Area.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. Home occupation (year-round dwellings only).
2. Residential accessory structures and uses, including accessory dwelling units.
3. Ground disturbance and clearing vegetation.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings (conforming lots only).
2. Renovations that increase number of bedrooms, replace foundation, change building envelope size, or replace the structure.

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use.
2. Lot Frontage Minimum: 100 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Minimum Lakeshore Setback: 100 feet.
6. Maximum height all structures: 35 feet from any walkout grade.

Class B Lots:

1. Lot Area Minimum: 40,000 square feet per principal use.
2. Lot Frontage Minimum: 150 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Lakeshore setback: 100 feet.
6. Maximum height all structures 35 feet from any walkout grade.

§3.1.5 Mixed Use Area

A. Description

Per the zoning map and described as three discrete areas: parcels running east of I-91 and west of the railroad right-of-way and running south along US Route 5 from parcels 08-03-17 and 08-03-18.21 to the Industrial Area beginning at the intersection of US Route 5 and VT Route 244, west of the railroad right-of-way and on the east side of US Route 5 to where the slope makes development impossible from the north of the Village Area to parcel 06-00-05, and between the railroad right-of-way on the east side of US Route 5 to where slope makes development impossible on the west side from parcel 02-00-37 to the Bradford town line.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings and additions.
2. Home occupation.
3. Residential accessory structures and uses.

These uses shall be permitted upon site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Home-based business or service.
2. Professional offices and services.
3. Personal services.
4. Hotels/motels.
5. Commercial nursery, landscape yards.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Cottage industries.
2. Motor vehicle sales.
3. Drive in movie theaters.
4. Heavy equipment yards.
5. Light industrial uses.

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use.
2. Lot Frontage Minimum: 100 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum Height all structures: 35 feet from any walkout grade.

Class B Lots:

1. Lot Area Minimum: 40,000 square feet per principal use.
2. Lot Frontage Minimum: 150 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum Height all structures: 35 feet from street grade.

§3.1.6 Residential Area

A. Description

Per the zoning map, the Residential Area is a broad classification of all lands lying outside of all other zoning districts.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings and additions.
2. Home occupation.
3. Residential accessory structures and uses.

These uses shall be permitted upon site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Home-based business or service.

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Cottage industry.
2. Apartment houses (Class A lots only).

D. Land Area and Structural Requirements

Class A Lots (on Village water):

1. Lot Area Minimum: 20,000 square feet per principal use.
2. Lot Frontage Minimum: 100 feet.
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet.
5. Maximum Height all structures: 35 feet from lowest adjacent grade.
6. Minimum Lot Depth: 100 feet.

Class B Lots (not on Village water):

1. Lot Area Minimum: 2 acres per principal use.
2. Lot Frontage Minimum: 200 feet.
3. Building Setback Minimum: 60 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 25 feet.
5. Maximum Height all structures: 35 feet from street grade.
6. Minimum Lot Depth: 200 feet.

§3.1.7 Rural Resource Area

A. Description

Per the zoning map, the purpose of this district is to protect large sections of forest from fragmentation and development that could impair water quality downstream, including from flooding and erosion, and to support wildlife corridors. Intact forests have unique habitats needed for many species and from the source for absorbing and filtering precipitation for clean ground and surface waters at lower elevations.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator within 300 feet of public roads:

1. Single-family dwellings.
2. Residential accessory structures and uses.
3. Home occupations.
4. Primitive camps.

C. Conditional Uses (Everything that is not permitted through an Administrative permit.)

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the DRB and issuance of a Zoning Permit by the Zoning Administrator:

1. Commercial/institutional outdoor rural recreation.
2. Development is permitted per §3.1.7 B if greater than 300 feet from a public road.

D. Land Area and Structural Requirements

Class A Lots: *None in this zone.*

Class B Lots:

1. Lot Area Minimum: 10 acres per principal use (unless waived per §5.5.2).
2. Lot Frontage Minimum: 400 feet (unless waived per §5.5.2).
3. Building Setback Minimum: 65 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 40 feet.
5. Maximum Height all structures: 25 feet above grade. Additional height per conditional use findings by the DRB.

§3.2 [Reserved for future use.]

§3.3 Purposes of Overlay Areas

The specific purposes of the Overlay Areas established in Article II are as follows:

A. Village Center Overlay Area

The mapped area designated by the Vermont Agency of Commerce and Community Development, which is subject to special revitalization programs and tax credits and contains core community assets.

B. Source Protection Overlay Areas

The districts established to protect the quality of public water supplies and their source aquifers by minimizing contamination of vulnerable aquifers and preserving and protecting existing and potential sources of public drinking water supplies. These provisions have been prepared and adopted pursuant to the provisions of 24 V.S.A. Chapter 117 §4414(2).

C. Water Service Overlay Area

As defined on the official map, the Water Service Overlay Areas are those areas served by the Town of Fairlee municipal water system. Minimum area of a lot serviced by municipal water supply is 20,000 square feet and is classified as a Class A lot.

D. Lake Morey Watershed Overlay Area

Lake Morey is a special resource and will be damaged through nutrient loading from runoff and shoreline erosion within its watershed. Overlay protections in this watershed area will reduce the likelihood of such nutrient inflow, which would be ~~very~~ expensive to remove from the lake, if at all possible, and can cause harmful algal blooms reducing water quality.

§3.4 [Reserved for future use.]

§3.5 Source Protection Areas Regulations

These provisions shall be known as the Source Protection Overlay Areas Regulations of the Town of Fairlee.

§3.5.1

A. Purpose and Intent

The Town of Fairlee recognizes that many residents rely on groundwater for their safe drinking water supply and that certain land uses can contaminate groundwater, particularly in shallow/surficial aquifers or where contaminants can get into a bedrock aquifer. To ensure the protection of these public drinking water supplies, this UDB establishes a zoning overlay district to be known as the Source Protection Overlay District. The purpose of the Source Protection Overlay District is to protect public health and safety by minimizing contamination of vulnerable aquifers and preserving and protecting existing and potential sources of public drinking water supplies. It is the intent of the Town of Fairlee to accomplish this through the adoption of this Source Protection Overlay District. The Source Protection Overlay District allows for appropriate land use regulations in addition to those currently imposed by existing zoning districts or other State and Federal regulations. It is intended that public education and cooperation will complement this effort. The Source Protection Overlay District is superimposed on all (or specific) current zoning districts and shall apply to all new construction, reconstruction, expansion of existing buildings, and new or expanded uses. Applicable activities/uses allowed in a portion of one of the underlying zoning districts that fall within the Source Protection Overlay District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Source Protection Overlay District.

B. Authority

1. These provisions have been prepared and adopted pursuant to the provisions of 24 V.S.A. Chapter 117 (§ 4414(2)), known as the Vermont Municipal and Regional Planning and Development Act.
2. Pursuant to 24 V.S.A. Chapter 117, the Development Review Board of the Town of Fairlee is authorized to review, approve, conditionally approve, and deny applications for land development, including sketch, preliminary and final plans, and installation. Pursuant to 24 V.S.A. § 4440(d) the [Board] is authorized to hire qualified persons to conduct an independent technical review of applications and to require the applicant to pay for all reasonable costs thereof.

§3.5.2 Zones Within the Source Protection Overlay District

A. Well Head Protection Area (WHPA)

The WHPA is defined as the area within the combined 2-year time-of-travel distance and zone WHPA as identified in an existing water system's Source Protection Plan. These zones have been mapped around a public water supply well(s) or around the location designated for a potential future water supply.

1. Permitted Uses

The following uses are allowed within WHPA provided they meet the appropriate performance standards outlined in Section 2 below and are designed so as to prevent any groundwater contamination to parks, greenways, or publicly owned

recreational areas, such as foot, bicycle or horse paths, playgrounds, ball fields, and tennis courts; necessary public drinking water supply-related facilities, including the construction, maintenance, repair, and enlargement of source, treatment, storage, pumping, or distribution facilities; and conservation efforts for soil, water, plants, and wildlife.

2. Conditional Uses

The following uses are allowed only under the terms of a conditional use permit and must conform to the provisions of the underlying zoning district and meet the performance standards outlined in Section 2 below. Non-conforming uses may only be expanded to the extent permitted by the underlying zoning district, and their expansion must conform to the performance standards outlined in Section 2 below. Conditional uses include automobile body/repair shop; gas station, fleet/trucking/bus terminal, dry cleaner, electrical/electronic manufacturing facility, machine shop, metal plating/finishing/fabricating facility, chemical processing/storage facility, wood preserving/treating facility, junk/scrap/salvage yard, mines/gravel pit, or irrigated nursery/greenhouse stock facility. Additional conditional uses include proposed land developments that use an “enhanced prescriptive” or “performance based” approach for wastewater systems according to the State of Vermont, Environmental Protection Rules effective 1/1/05 or expansion of existing non-conforming uses to the extent allowed by the underlying district. The applicant should consult the local zoning plan to confirm nonconforming uses.

The Town of Fairlee reserves the right to review all applications and shall not grant conditional use approval unless it finds, the following: such expansion does not pose greater potential contamination of groundwater than the existing use; equipment maintenance/fueling areas; injection wells/dry wells/sumps, except for single-family residences directing gutter downspouts to a drywell; underground storage tanks (except septic tanks and those with spill, overfill, and corrosion protection requirements in place); all other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any hazardous material or hazardous waste having potentially harmful impact on groundwater quality; and all uses not listed as allowed or conditional shall be prohibited.

B. Two-Year Time of Travel

Approval of septic disposal systems within the 2-year time-of-travel boundary is prohibited unless it can be demonstrated that the discharge from the septic disposal site is not hydraulically connected to the drinking water aquifer or that additional information is presented to document that a 2-year time-of-travel is met or exceeded by the existing or potential water supply source.

C. Liability

Nothing in this ordinance shall be construed to imply that the Town of Fairlee has accepted any of an owner’s or developer’s liability if a permitted facility or use contaminates groundwater in any aquifer.

D. District Boundary Disputes

If the location of the Source Protection Overlay District boundary in relation to a parcel is in doubt and the application already requires conditional use approval because of the

requirements of the underlying zone, the Town Zoning Administrator, interpreting the municipal zoning UDB literally, shall inform the applicant whether they believe the project is located within the Source Protection Overlay District. If the project would not need conditional use approval based on the requirements of the underlying district, the Zoning Administrator may still determine, based on the official map, that such project is located within the Source Protection Overlay District. Such decision may be appealed to the DRB. The burden of proof shall be upon the owner(s) of the land to demonstrate where the boundaries of the district should be located with respect to their individual parcel(s) of land. If the owner(s) request that the Town of Fairlee determine more accurately the boundaries of the district with respect to individual parcels of land, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist and charge the owner(s) for the cost of the investigation.

§3.5.3 ENFORCEMENT AND PENALTIES

A violation of this UDB shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. §4451, 4452, and 4454. A civil penalty of not more than \$200.00 per violation of the UDB every day of the violation may be imposed. The Zoning Administrator shall issue a notice of alleged violation, which shall include the opportunity to cure the violation within 7 days. If it is not cured after 7 days, a notice of violation may be issued immediately. The Zoning Administrator may institute, in the name of the municipality, any appropriate action seeking an injunction or other appropriate relief to prevent, restrain, correct, or abate that construction or use. Such action may be initiated in either the Vermont Environmental Court or in the Vermont Judicial Bureau, as appropriate. Each day that the violation continues shall constitute a separate violation of this UDB.

§3.5.4 Severability

If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this UDB shall not be affected.

§3.6 Lake Morey Protection Overlay Standards

Within the overlay, there shall be no ground disturbance within 35 feet of any surface water, except as authorized by a State Stream Alteration permit or Shoreland permit. Erosion control practices for temporary disturbances shall be strictly adhered to.

§3.7 Flood Hazard Area Overlay

See Article VII

§3.8 Receiving Area

As delineated as an overlay district on the Zoning Map, otherwise qualified Class B lots may be waived down to 1-acre minimum lot sizes with the transfer of subdivision rights as provided in §5.5.2.

Article IV. GENERAL REGULATIONS

§4.1 Lots and Parcels

§4.1.1 Pre-Existing Lots and Subdivision Plots

Notwithstanding, the other provisions of this UDB: Any owner or subsequent owner of land who has acquired title to a parcel of land or submitted a plan of subdivision recorded and filed with the Fairlee Town Clerk prior to January 1, 1975, may develop such a lot or recorded subdivision for purposes permitted in the district in which it is located even though not conforming to minimum lot size requirement, provided such a lot or resulting lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet.

§4.1.2 Deemed Merger of Non-Conforming Lots of Less Than One-Eighth Acre

Lots of less than one-eighth acre in area that come into affiliated ownership with a contiguous lot shall be deemed merged per the provisions of VSA T.24 §4412(2)(B).

§4.1.3 Lots in Two Districts

If a lot is in two or more districts, the portion of land in each district shall be governed by the rules of that district, if there is sufficient acreage in such district to allow for a conforming lot. When lots only have a complying portion in one district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being entirely in the district with the majority of the lot acreage. In lots within overlay districts, the overlay requirements shall supersede those of the underlying district when stricter.

§4.1.4 Required Frontage on or Access to Public Roads

No land development may be permitted on lots which do not either have frontage on a public road or public waters or with the approval of the DRB or access to such a road or waters by a permanent easement or right-of-way. Any new rights-of-way shall be at least 49.5 feet or 3 rods in width. In a situation where a lot is to be developed that does not have frontage on a public road, the front setbacks shall be measured from the lot line of the adjoining property, which falls between the public road to which the right-of-way has access and from the lot where the development is to occur, not from the centerline of the public road. Every application made to the DRB for Access Approval shall be accompanied by the following materials:

- A.** A copy of the proposed easement language.
- B.** A plan or sketch map showing the right-of-way and any outstanding physical features.
- C.** A written description of the land characteristics or topography along the right-of-way sufficient for the Board to conclude that an access road is reasonably feasible. All new buildings or additions shall have a setback of at least 50 feet from the centerline of a right-of-way. All new buildings or additions on corner lots shall be setback at least 50 feet from the centerline of each right-of-way.
- D.** A special permit for Forest Product Removal is required from the Selectboard whenever land is entered from a town road for the purposes of removal of forest products and either of the following conditions exist: (1) where no existing driveway is present or (2) where entrance to an existing driveway has the potential to damage town property because of weight or size of equipment used.

§4.1.5 Reduction in Lot Area

No lot shall be so reduced in area that the area, yard, lot width, frontage, coverage, or other requirements of these regulations shall be smaller than therein prescribed for each district.

§4.2 Recreational Vehicles and Travel Trailers on Residential Lots

§4.2.1 Recreational vehicles and travel trailers may be parked on residential lots provided they are currently tagged and parked in such a way as to meet the front and side setbacks for the zone in which they are parked.

§4.2.2 Recreational vehicles and travel trailers parked on a residential lot may be used for guest quarters for no more than 60 days a year provided required setbacks are met and sewage is entirely self-contained.

§4.2.3 Recreational vehicles and travel trailers may be occupied on vacant lots for no more than 28 days a year provided required setbacks are met and sewage is entirely self-contained unless the lot has received a State Wastewater and Potable Water Supply Permit and the required improvements have been installed in which case the recreational vehicle or travel trailer shall be regulated in a way consistent with provisions for seasonal dwellings.

§4.3 Structures Exempt from Permit Requirements

§4.3.1 Agricultural Exemptions

For purposes of exempting farm activities and structures from local zoning, the State of Vermont defines agricultural enterprise and farming as meeting one of the following four categories:

- A.** The parcel is used in connection with the sale of \$1000.00 (one thousand dollars) or more of agricultural products in a normal year.
- B.** The parcel is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasant, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one-thousand pounds of cultured trout.
- C.** The parcel is used by a farmer filing with the Internal Revenue Service a 1040 (F) income tax statement in at least one of the past 2 years.
- D.** The parcel is on a farm with a business and farm management plan approved by the Vermont Secretary of Agriculture.

Activities and structures that meet one of these four categories are exempt from local permit requirements and shall submit an Agricultural Notification Form rather than make application for a zoning permit. If a structure under this provision does not meet the required setback requirements for the land use zone, the notifying party must present a waiver issued by the Secretary of Agriculture at the time of the notification.

§4.3.2 Removable items installed by utility providers, fuel distributors, and consumer communications providers are exempt from permit requirements. Examples would include propane tanks; electrical, cable television, and telephone lines; or consumer-sized satellite dish antennae.

§4.3.3 Temporary structures, such as event tents, farmer's markets and flea market stalls, event signage, or project office trailers are exempt from permitting requirements provided they are removed within 5 days of the end of the event, project, or construction.

§4.3.4 Small residential accessory structures that meet all the following criteria are exempt from permit requirements. These exemptions shall not apply in the Flood Hazard Area Overlay, Lake Fairlee and Lake Morey Areas, or Lake Morey Protection Overlay Area.

- A.** The structure shall not exceed 32 square feet in area.

- B. The structure shall not exceed 8 feet in height.
- C. The structure shall not be attached to the ground by a foundation, pins, or stakes.
- D. The structure shall meet all the required setbacks for the zoning district.
- E. This exemption shall apply to one such structure on the lot.
- F. The property owner shall notify the Zoning Administrative Officer that such a structure is being constructed on forms provided for that purpose.

§4.4 Multi-family Dwellings

§4.4.1 Any lot developed with a multi-family dwelling shall maintain an area of at least 500 square feet of common open outdoor area per dwelling unit in addition to any parking, required buffers, screening, or service areas.

§4.4.2 All dumpsters, trash cans, and other rubbish receptacles shall be screened from public view and maintained in good order. Overflowing receptacles or rubbish accumulating on the lot shall be considered a violation of this provision.

§4.4.3 Where a multi-family dwelling is proposed on a lot adjacent to a lot containing a one- or two-family dwelling, a 15-foot-wide landscaped buffer strip shall be maintained.

§4.4.4 All land development that entails the construction of new multi-family units, the redevelopment of existing structures into multi-family units or the addition of units to an existing multi-family dwelling shall be subject to a site plan review per Article V of this UDB.

§4.4.5 The requirements of this §4.4 are in addition to any requirements, special conditions, or stipulations that may be imposed by the DRB under a site plan review proceeding per Article V of this UDB and may not be waived.

§4.4.6 Multi-family dwellings of three units or more require installation of conduit for electric vehicle (EV) charging for 20% of parking spaces (rounded up to the nearest whole number). Electrical conduit must be capable of providing a level 2 charge within 5 feet of the centerline of the parking space. Construction documents shall indicate that these conduit requirements have been met. The following are exempt:

- A. Parking spaces intended exclusively for storage of vehicles for retail sale or vehicle service.
- B. Parking spaces that are separated from the meter by a public right-of-way, such as a road.
- C. Parking spaces that are limited to parking durations of less than 1 hour.
- D. The number of parking spaces that are marked for “EV use only” need not exceed the number of EV cars driven by occupants of the building.

§4.5 Residential Based Businesses

For the purposes of preserving the home occupation accessory use rights of homeowners as protected under VSA T.24 §4406, preserve the residential character of established neighborhoods, and mitigate and control the impacts of residential commercial uses on neighboring property owners and residents, the classifications and use criteria are established in this subsection and in Article III. These classifications and criteria consist of Home Occupation, Home Based Business or Service, and Cottage Industry. Home Office uses that do not employ persons from outside the home, do not generate client traffic or delivery traffic in excess of regular parcel delivery service, and are not advertised with signage and yard or garage sales that meet the definition in Article VIII are specifically exempt from these provisions and permit requirements.

§4.5.1 Home Occupations

In all districts where one-family dwellings are a permitted use, a home occupation shall comply with the following criteria:

- A.** The home occupation shall be incidental to the use of the building as a residence. It shall not affect the character of the principal building as a dwelling or the character of the neighborhood.
- B.** The home occupation shall be conducted entirely within a minor portion of the dwelling not to exceed 35% of the gross living area above grade. Family Child Care Homes serving six or fewer children as defined in the Fairlee Zoning Regulations §4.20 shall be explicitly exempt from this criterion. Exterior alteration of the dwelling to indicate its use as a home occupation is prohibited.
- C.** Open storage of materials of any kind related to the home occupation is prohibited.
- D.** Nuisances such as excessive noise, smoke, dust, odors, dirt, vibration, electrical interference, glare, or light shall not be produced.
- E.** No traffic or vehicle parking shall be generated greater than would be expected in the neighborhood. The home occupation may attract business-related traffic only between the hours of 8:00 AM and 6:30 PM. Family Child Care Homes shall be explicitly exempt from this criterion.
- F.** The owner of the home occupation business operation shall reside in the dwelling that is the subject of the home occupation permit.
- G.** No more than one individual who does not reside in the dwelling shall be employed on site by the home occupation. The owner of the home occupation shall provide on-site parking for that employee.

If an application meets these criteria, the Zoning Administrator shall issue the required permit. In the event that an application does not meet these criteria, the Zoning Administrator shall refer the application for a site plan review and/or conditional use review before the DRB, under the Fairlee Zoning Regulations §4.5(B) and §4.5(C) below, upon payment of fees for a public hearing. A sign to advertise the home occupation may be allowed as provided in Article IV §4.16 of the Fairlee Zoning Regulations.

§4.5.2 Home-Based Business or Service

In districts where a permitted use or conditional use permit is required, a home-based business or service as allowed in Article III of the Fairlee Zoning Regulations shall comply with the following criteria:

- A.** The home-based business or service shall be incidental to the use of the building as a residence. It shall not affect the character of the principal building as a dwelling or the character of the neighborhood.
- B.** The home-based business or service may be conducted from a portion of a dwelling not to exceed 50% of the gross living area above grade or from an accessory structure; in no circumstance shall more than 25% of a residential lot be devoted to a home-based business or service, including the footprints of the portions of all structures used for the residential business or service, any permitted open storage areas, and any required parking areas; and family child care homes are explicitly exempt from this criterion. Exterior alteration of the accessory structure or dwelling to indicate its use as a business or service is prohibited.

- C.** Upon site plan approval by the DRB, open storage of materials or inventory may be allowed if properly screened from view of neighbors and the public roadway.
- D.** Nuisances such as excessive noise, smoke, dust, odors, dirt, vibration, electrical interference, glare, or light shall not be produced.
- E.** Additional traffic generated by the home-based business or service shall not place excessive increased demand on local roads and shall not have a negative impact on the residential character of the neighborhood.
- F.** The owner of the home-based business or service shall reside in the dwelling that is the subject of the home-based business or service use permit.
- G.** No more than three individuals who do not reside in the dwelling shall be employed on site by the home-based business or service. The owner of the home-based business or service shall provide on-site parking for all employees.
- H.** The owner of the home-based business or service shall provide adequate on-site parking for clientele as determined by the DRB.
- I.** A family child care home serving no more than six full-time children and four part-time children shall be a permitted use of property, but requires site plan approval outlined in §5.9 and §5.10 of this UDB. Family child care facilities serving more than six full-time and four part-time children require site plan and conditional use approval as outlined in §5.6, §5.9, and §5.10 of this UDB.

A sign to advertise the home-based business or service may be allowed as provided in Article VI §4.16 of the Fairlee Zoning Regulations.

§4.5.3 Cottage Industry

The term cottage industry is herein used to describe home businesses that involve the manufacture of goods or the provision of services using chemical processes; high heat; equipment or technique that produces high levels of sound or vibration; or produces emission of dust, smoke, odors, dirt, vibration, electrical interference, glare, or light. In all districts where cottage industries are a conditional use, they shall comply with the following criteria:

- A.** The cottage industry shall be incidental to the use of the building as a residence. It shall not affect the character of the principal building as a dwelling or the character of the neighborhood.
- B.** The cottage industry may use a minor portion of the dwelling not to exceed 20% of the gross living area above grade space for office purposes; in the manufacture of goods or the provision services is to be conducted entirely within an accessory structure; in no circumstance shall more than 25% of a lot be devoted to a cottage industry, including the footprints of the portions of the dwelling and accessory structures used for the cottage industry, all areas used for open storage, and any required parking areas. Exterior alteration of the dwelling or the accessory structure to indicate its use as a cottage industry is prohibited.
- C.** Upon site plan approval by the DRB, open storage of materials or inventory may be allowed if properly screened from view of neighbors and the public roadway.
- D.** Neighboring properties and residents shall be protected from nuisances such as excessive noise, smoke, dust, heat, vibration, odors, dirt, vibration, electrical interference, glare, or light by means deemed adequate by the DRB.

E. Additional traffic generated by the cottage industry shall not place excessive increased demand on local roads and shall not have a negative impact on the neighborhood.

F. The owner of the cottage industry shall reside in the dwelling that is the subject of the cottage industry's conditional use permit.

G. No more than three individuals who do not reside in the dwelling shall be employed on site by the cottage industry. The owner of the cottage industry shall provide on-site parking for all employees.

H. The owner of the cottage industry shall provide adequate on-site parking for clientele as determined by the DRB.

A sign to advertise the cottage industry may be allowed as provided in Article VI §4.16 of the Fairlee Zoning Regulations.

§4.6 Non-Conforming Uses and Structures

Any structure and/or use of land existing on the effective date of this UDB and all uses that in the future do not conform due to subsequent amendment to this UDB, may be continued indefinitely subject to the following limitations:

A. A non-conforming use of land and/or structures may be altered, enlarged or expanded only if the change does not increase the degree of non-conformity, and upon approval of a Conditional Use Permit by the DRB. **Note:** any change to a nonconformity in the Lake Area or Lakeshore Resort Area may require a State Shoreland permit.

B. A non-conforming use of land and/or structures may be changed to another non-conforming use only if such new use is of the same or a more restricted nature and upon approval of a Conditional Use Permit by the DRB.

C. A non-conforming use that has been discontinued for a period of 1 year shall not be thereafter resumed. This includes mowed areas in the Lakeshore Resort Area and Lake Fairlee and Lake Morey Areas, which if not mowed at least once a year shall not be reestablished as lawn.

D. A nonconforming structure or one that does not meet all district area and dimension requirements for a given use may be altered or enlarged only if the change does not increase the degree of nonconformity and upon approval of a Conditional Use Permit by the DRB. In the Flood Hazard Overlay Area, Lake Morey Protection Overlay Area, Lake Fairlee and Lake Morey Areas, and Lakeshore Resort Areas, additional State regulations or other parts of this UDB may apply. Please see the Zoning Administrator.

E. A nonconforming structure that has been badly damaged or destroyed shall not be restored unless an application for a Conditional Use Permit for such restoration has been made within 1 year. The restoration plan shall include all reasonable steps to bring the structure into conformity. A structure that has been removed at the owner's direction prior to application for a conditional use permit shall not qualify for such use under this provision. In either case, approval of a Conditional Use Permit by the DRB is necessary.

§4.7 Minimum Off-Street Parking Requirements

For every building hereafter erected, extended, or substantially changed in use, there shall be provided off-street parking space as provided below. A parking space shall consist of 200 square feet of area per car. Deviation from these specifications either in terms of an increase or decrease in the number of spaces for the uses listed below shall be solely at the discretion of the DRB.

- A.** Places of public assembly, including but not limited to community centers, churches, and schools shall have one parking space for every three seats or capacity thereof.
- B.** Commercial and/or industrial uses shall have one parking space for every business and employee vehicle, plus one parking space for every 400 square feet of gross retail floor space.
- C.** Required off-street parking facilities shall be located on the same lot as the building or other use that they serve, but may be located elsewhere subject to approval by the DRB.
- D.** Multi-family structures shall have one space per unit.
- E.** Single-family dwellings shall have at least one off-street parking spaces that meet these provisions.

§4.8 Sub-Surface Sewage Disposal

No zoning permit under this UDB shall be issued for land development involving the alteration, expansion, or installation of sub-surface sewage disposal systems until the applicant has obtained a State of Vermont Wastewater Discharge and Potable Water Supply Permit, an amendment to an existing State of Vermont Wastewater Discharge and Potable Water Supply Permit, or a document from the Agency of Natural Resources stating that such a permit is not required or deferred.

§4.9 Extraction of Soil, Sand, and Gravel

The removal of soil, sand, gravel, or minerals for sale shall be permitted only upon approval by the DRB after the receipt of an acceptable plan for the rehabilitation of the site at the conclusion of the operations and a bond or other security to assure the rehabilitation.

§4.10 Abandonment of Structure

Within 6 months after any building or structure has collapsed, been destroyed, demolished, or abandoned, the Zoning Administrator, after a public hearing, shall require the owner of the property to remove all structural materials from the site, fill to grade any remaining excavations, and screen or landscape the property.

§4.11 Lakeshore and Shoreland Development

No permit for land development, including ground disturbance or cutting or clearing of vegetation within 250 feet of the normal mean water mark of Lake Morey or Lake Fairlee, except where a public road bisects the 250 feet of regulated or legacy distance attached to existing footprints, shall be issued before the issuance of a State Shoreland Development Permit, a deferral of permit requirements, or a memorandum of non-requirement.

§4.12 Hazardous Waste

Nuclear and/or radioactive waste may not be stored or disposed of in the Town of Fairlee. Other hazardous chemicals and/or their wastes may not be stored in the Town of Fairlee, except with the permission of the local Board of Health and the Fairlee Fire Chief.

§4.13 Private Swimming Pools

Private swimming pools that are designed to contain water depth of 36 inches or more, both above the ground and in-ground, are considered structures and shall not be less than 15 feet from the water's edge to the lot lines. The DRB may waive this requirement if unnecessary hardship can be shown by the applicant. Any in-ground pool shall be surrounded by a fence at least 4-feet high capable of limiting accessibility by children and must be erected before the pool is filled with water.

§4.14 Accessory Dwellings

An accessory dwelling unit (ADU) that is located on the same parcel as an owner-occupied single-family dwelling in any land use area or any residential parcel in the village use area shall be a permitted use so long as the unit is in compliance with the following:

- A.** The property has sufficient wastewater capacity.
- B.** The unit does not exceed 30% of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.
- C.** The applicable setback, coverage, and parking requirement as stipulated in the regulations UDB are met.

§4.15 Child Care

Child care facilities shall be allowed as defined in VSA 24 §4412 (5) as either permitted or conditional use as specified in this UDB. A family child care home serving six or fewer children shall be a permitted use in any single-family residence in all zoning districts. A family child care home serving no more than six full-time children and four part-time children, shall be a permitted use of property, but requires site plan approval outlined in Section 5.9 and Section 5.10 of this UDB.

Family child care facilities serving more than six full-time and four part-time children require site plan and conditional use approval as outlined in sections 5.6, 5.9 and 5.10 of this UDB.

Site Based (non-home based) child care facilities are commercial enterprises and are permitted in the commercial zone. Site based child care facilities are allowed by waiver in the Residential and Industrial zones. Site based child care facilities are subject to site plan review as outlined in sections 5.9 and 5.10 of this UDB. On-site, employer-based child care is permitted in all districts.

§4.16 Signs

A. Signs are exempt from the setback requirements of each district. Signs shall be located so as not to be a visual obstruction to vehicle or pedestrian traffic. Placement in the Town right-of-way shall require Selectboard approval.

B. All signs must be constructed of durable materials and shall be maintained in good repair at all times.

C. For purposes of this provision, sign area is calculated per display area. In cases where a permitted two-sided, free-standing sign is to be limited to x number of square feet, x is for each display area (i.e., x = 32 square feet per side for two-sided road sign, 32 square feet per side is allowed).

D. In all districts where applicable, a sign not exceeding 12 square feet is permitted, which announces the name, address, profession, or home occupation.

E. A bulletin board not exceeding 32 square feet mounted on the building is permitted in connection with any church, school, or similar public structure.

F. A temporary sign, not exceeding 6 square feet, is permitted on the property being sold, leased, or developed and shall not require a permit; however, such sign shall be removed promptly when it has fulfilled its function.

G. Within the Commercial district, a new business sign shall be permitted with the issuance of an administrative permit upon submission of a complete application, design plan, and required fees in connection with any legal business or industry in accordance with the following requirements:

- 1.** Two signs are permitted for any legally established business, one free standing and the other attached to the building, except as provided below.

- 2.** A business located on a corner lot shall be allowed one free standing sign and one sign attached to the building on each side of the building that faces a street or highway.

- 3.** The primary purpose of the sign shall be for identification purposes and not for advertising. Legal businesses permitted to sell motor vehicle fuels may post current unit prices on signs that meet the requirements of this provision.

- 4.** Signs shall not extend above the roof or parapet of the building. The height of a free-standing sign shall not exceed 15 feet without approval of a DRB site plan review.

- 5.** Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic.

Illumination shall be properly focused upon or from within the sign itself.

- a.** Illumination by use of floodlights or spotlights used for external lighting of signs shall be mounted above the sign targeted for lighting, and illumination shall be properly focused upon and confined to the area of the sign.

- b.** Illumination for internally lit signs shall be designed with an opaque background so that only the lettering, symbols (i.e., logos), or design shall appear to be lighted in order to produce no glare visible from adjacent streets or public rights-of-way.

- 6.** Exterior signs that are neon, animated, flashing, or with intermittent illumination are prohibited.

- 7.** Signs shall not project over the public right-of-way or property lines.

- 8.** Sign size shall be in proportion to the land use, lot size, and building size. Maximum square footage of any free-standing sign approved under an administrative permit shall be 32 square feet with the building sign not to exceed 10% of the total area of the building façade to a maximum of 64 square feet. Signs that exceed these limits must be approved by the DRB in a site plan review proceeding.
- 9.** In the event that a business occupies two or more contiguous retail units or store fronts, that business shall be allowed one sign on the building up to 10% of the total area of the façade occupied by that business to a maximum of 64 square feet.
- 10.** Sign size for mall and business complexes shall be computed as follows:
- a.** For malls and business complexes (up to four businesses), an 80 square foot free standing sign is allowable with one building sign per business up to 20 square feet.
 - b.** For malls and business complexes (five or more businesses), a 60 square foot free standing sign with an additional 10 square feet per business to a maximum of 100 square feet of total area is allowable with one building sign per business up to 20 square feet.
 - c.** For complexes with nine or more businesses, an additional directory sign may be erected with a DRB site plan approval no less than 50 feet from the entrance to the complex.
- 11.** Temporary, moveable signs, banners, balloons, or other portable advertising devices designed to advertise products for sale are exempt from permitting for a time period not to exceed 14 consecutive days.
- 12.** Signs that are built into or are an integral part of the edifice of a building are permitted and are not considered to be a sign attached to the building, provided they conform to the provisions of this section.
- 13.** Signs located in design overlay districts must conform to any applicable design control regulations.
- 14.** Signs shall only be illuminated during hours of operation.

§4.17 Private Helipads

Private helipads that are designed to facilitate the landing of general aviation helicopters operated by private pilots and not regulated by the FAA as commercial or public facilities are strictly prohibited.

Article V. ADMINISTRATION AND ENFORCEMENT

§5.1 Zoning Administration

§5.1.1 Related Permit Programs

No zoning permit application will be accepted by the Zoning Administrator until such time as the applicant has secured, where required, a permit from the Agency of Natural Resources for wastewater disposal and potable water supply, State of Vermont shoreland development approval, road access permitting from the Vermont Department of Transportation or the Fairlee Selectboard; and any required Fairlee DRB approvals, reviews, or permits.

§5.1.2 Zoning Permit

No land development shall commence unless a zoning permit has been duly issued by the Zoning Administrator, as provided for in §4443 of the Act. The fee for a such zoning permit shall be established by the Town Selectboard. The Zoning Administrator shall provide to interested persons such forms, checklists, and information necessary for the proper filing and processing of zoning permit applications.

§5.1.3 Appointment: Administrative Officer, the Zoning Administrator

- A.** The Administrative Officer, heretofore, the Zoning Administrator, shall be appointed by the Selectboard with the advice of the Planning Commission for a term of 3 years. Appointments to fill a vacancy shall be for the period of the current unexpired term.
- B.** Employment terms, compensation, reimbursement of reasonable expenses, and hours of operation shall be set by the Selectboard consistent with State laws concerning municipal employees.
- C.** The Zoning Administrator may be removed upon the recommendation of the Planning Commission by a simple majority of the Selectboard or at any other time by a unanimous vote of the Selectboard.

§5.1.4 Duties and Powers of the Administrative Officer

- A.** The Zoning Administrator shall literally enforce the land use and development regulations as adopted by the Town of Fairlee. Any discretion as may be construed in the administration of these regulations is only as explicitly granted under the UDB language.
- B.** Prior to the issuance of any zoning permit, the Zoning Administrator shall first be satisfied that the subject of the application is in conformance with any and all land use regulations in effect in the Town of Fairlee. The Zoning Administrator may require from the applicant any information deemed necessary for this purpose. No permit shall be issued unless an application fee, plot or site plan, and/or any approvals by the DRB required by the applicable UDBs have been properly obtained and are submitted in connection with the application.
- C.** Prior to the administrative issuance of a zoning permit for a commercial change in tenancy, the Zoning Administrator shall establish that the application is for a use or activity of an equal or lesser intensity in terms of parking, circulation, and traffic. This permit may be included with permits for commercial signage. Where the use or activity will increase intensity of burdens on parking, circulation, and traffic or entail the construction of or addition to any structure, the Zoning Administrator shall refer the application to the DRB for a site plan review and shall only issue the required permit upon DRB approval of the site plan.
- D.** Any decision made under these provisions may be appealed to the DRB per the process for appeal per 24 VSA Chapter 117, as amended.

§5.2 The Development Review Board

§5.2.1 Creation and Powers

There is, hereby, established a Development Review Board (DRB) appointed as provided by law and having the powers and duties set forth in 24 VSA Chapter 117, as amended. The DRB shall have the following powers and duties:

- A.** To hear and decide appeals, including, without limitation, where it is alleged that an error has been committed in any order, requirement, decision, or determination made by the Zoning Administrator.
- B.** To hear and adjudicate each request for a conditional use approval.
- C.** To review and approve or reject site plans.
- D.** To hear and adjudicate each request for a waiver of setback requirements.
- E.** To review and approve or reject plats.
- F.** To hear and adjudicate a request for variance.

Rules of procedure, nature of appeals, public notice, conditions for variance relief, and all other matters shall be established as provided in Subchapter 8 of V.S.A. T.24 Chapter 117.

§5.3 Conditional Uses

A. Any structure or use of a structure which requires a Conditional Use Approval shall not be granted a zoning permit by the Zoning Administrator unless the Development Review Board determines that the proposed use shall conform to the specific standards prescribed in these Regulations and shall not unduly adversely affect:

- 1.** The capacity of existing or planned community facilities,
- 2.** The character of the zoning district affected,
- 3.** Traffic on roads and highways in the vicinity,
- 4.** UDB then in effect,
- 5.** Utilization of renewable energy resources.

The DRB's review of a conditional use approval for the conversion of seasonal dwellings to year-round dwellings shall apply the following performance standards:

- 1.** Wastewater and potable water supply systems shall be permitted for year-round use by the Wastewater Division of the Agency of Natural Resources.
- 2.** Emergency access shall be approved by the Fire Chief.
- 3.** Off-street parking for two vehicles shall be provided.
- 4.** Conditional use approvals for year-round use shall be issued only to conforming lots.
- 5.** If the applicant can demonstrate that wastewater disposal has been arranged or moved at least 150 feet from the mean high water mark, and that any previous system shall be properly decommissioned, the DRB shall waive the conformity requirement.

The DRB's review of a Conditional Use Approval for the replacement of a compliant non-conforming dwelling in the Lake Morey Area §3.1.4.2 shall apply the following performance standards:

- 1.** A new Agency of Natural Resources [ANR] Wastewater and Potable Water Supply permit shall be obtained by the applicant. An as-built certificate shall be recorded before the Zoning Administrator can issue a Certificate of Compliance allowing occupancy.

2. There shall be no increase in the square foot floor area of the replacement structure.
3. There shall be no increase in the footprint on the lot.
4. There shall be no increase in the number of bedrooms in the replacement structure.
5. If the applicant can demonstrate that wastewater disposal has been arranged or moved at least 150 feet from the mean high water mark, and that any previous system shall be properly decommissioned, the DRB shall allow:
 - a. an increase in floor area of the replacement in the vertical plane within the height limit of the zone of 35 feet from any walkout grade;
 - b. an increase in the number of bedrooms not to exceed the number allowed under the state issued wastewater permit.

The DRB shall allow a onetime expansion of floor area of a non-conforming dwelling in the Lake Morey Area, 32 square feet or less in a non-conforming location if it meets the following standards:

1. Has obtained state shoreland regulatory approval.
2. Does not create, or results in the creation of or results in the opportunity to create an additional room. (Note: For this regulation, a closet (i.e., and enclosed space, usually with a door, used for storage), is not considered a "room".)

The DRB's review of a Conditional Use Approval for the use of a dwelling for short term rentals shall apply the following performance standards:

1. Dwelling shall be inspected and approved by the Fire Safety Division of the Vermont Department of Labor and Industry.
2. Capacity shall be limited to 2 persons per bedroom approved under the ANR issued Wastewater and Potable Water Supply Permit.
3. Applicant shall not advertise capacities greater than permitted.
4. Short term rental usage of seasonal dwellings shall not exceed 22 weeks a year.
5. The conditional use permit only allows the use of the property for legally defined use. Short term rental operators shall be liable for permitting and payment of fees, and limitations per licensing and permitting that may be imposed by Town Ordinances.

B. In granting or denying a conditional use approval, the procedures followed by the DRB shall be in accordance with §4414 (3) of the Act.

C. Every application for a conditional use approval for any use shall include the submission of the following plans and supporting information:

1. An application deemed complete by the Zoning Administrator.
2. A scale map showing the location of the site, including existing roads and highways and adjacent land uses.
3. A statement that includes the names and addresses of the owners of the land immediately adjacent to and across the road from the property at issue.
4. Sign-off statements of all appropriate Town Departments so that they have the capacity to service the proposed conditional use.

D. The effective date of a zoning permit issued as a conditional use shall be 30 days from the date of issuance during which time appeals from the decision may be filed and the result of the appeal shall determine outcome.

§5.4 Variances

The DRB shall grant a variance for specific cases as authorized under V.S.A. 24 §4469, only if *all* the following facts apply, and such findings are specified in its written decision:

A. 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 an unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of the UDB in the neighborhood or district in which the property is located.

B. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the UDB and that the authorization of a variance would therefore be necessary to enable reasonable use of the property.

C. The unnecessary hardship has not been created by the applicant, i.e., an applicant who has purchased a non-conformity has created the hardship upon themselves.

D. The variance, if authorized, would not alter the essential character of the neighborhood or district in which the property is located, would not substantially or permanently impair the appropriate use or development of adjacent property, would not reduce access to renewable energy resources, or would not be detrimental to the public welfare.

E. The variance, if authorized would represent the minimum variance that would afford relief and would represent the least deviation possible from the UDB and from the plan.

F. Variances to provisions to Article VII per §7.3F shall be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. §4469, §4424 (E), and 44 CFR §60.6, after a public hearing noticed as described in Section VIII.

§5.5 Waivers

Waivers may only be granted for changes to otherwise required dimensional standards. Some waivers are granted by the Zoning Administrator and others by the DRB. The DRB may waive setback requirements only after a warned public hearing. For development requiring additional approvals (site plan, conditional use) from the DRB, waiver review shall be done jointly with such approval processes. The DRB may not waive permitted or conditional use lists as cited in Article III or other provisions of the UDB.

§5.5.1 Waiver Criteria: Administrative Waiver

In all districts, waivers from the provisions of these UDB may be granted by the Zoning Administrator without a hearing for:

A. Reductions in front or side setbacks as necessary to allow for ADA compliant disability access.

B. Reductions in the side setbacks to allow for necessary EMS access improvements.

C. Reductions in the side or rear setbacks for required life/safety requirements on existing structures.

D. Reductions in front setbacks in the Village Center Area equal to those found on adjacent properties if traffic and pedestrian safety is maintained.

§5.5.2 Waiver Criteria: Warned Public Hearing

A. In all districts, waivers for setbacks may be granted after a hearing and approval by the DRB if at least one of the following criteria is met:

1. The proposed waiver is less non-conforming than existing conditions or the proposed waiver reduces non-conformity associated with the land use district.
2. The proposed development will cluster development and more effectively preserve open land, forest land, or scenic vistas.

B. In the Rural Resource Area, waivers for dimensional standards on development only requiring a zoning permit may be granted after a hearing and approval by the DRB if it finds the proposed development will cluster development and more effectively preserve open land, agricultural soils, wildlife crossings, forest land, or scenic vistas and if no dimension is reduced more than 50%.

C. As part of subdivision review and approval, Class B lot sizes in the Rural Resource Area may be waived down to no less than 2 acres provided that a contiguous amount of land on the lot or another lot in the Rural Resource Area equal to the remaining otherwise required minimum lot size is set aside to meet the 10-acre standard (for example, a 2-acre building lot would have eight additional undeveloped acres). Such undeveloped land shall be conserved with an easement acceptable to the DRB from any subsequent development as part of the waiver approval.

D. To incentivize conservation of larger areas in the Rural Resource Area as part of subdivision approval on lots of 40 acres or greater (that can create at least 4 lots), the placement of a conservation easement on each 30 acres of contiguous land on the lot in the district shall enable a fifth *bonus* developable lot to be created.

E. To keep lands in the Rural Resource Area undeveloped, the ability to create a lot can be transferred from the Rural Resource Area (sending area) to the overlay Receiving Area designated in the Residential Class B as part of subdivision review and approval in the Residential district for a Class B lot. In such a case, the Class B lot shall comply with septic permitting requirements, and minimum lot size for residential development shall be waived by the DRB to no less than 1 acre for each contiguous 10 acres in the Rural Resource Area that is conserved (per 24 V.S.A. 4423) in that district as part of the approval.

§5.5.3 Waiver Limitations

A. Setback waivers to extend a non-conforming building line may be applied for only one lot line.

B. Lot coverage by footprints of all structures on the lot after the application of the lot line waiver may not exceed 25%.

C. In the Village Center Area, center-of-the road setbacks may be waived to a distance of the average setback of abutting properties.

§5.5.4 Waiver Procedures

Application

The applicant shall submit to the Zoning Administrator at least 30 days prior to the meeting of the DRB a complete A1 and W1 forms, other forms appropriate to the proposed waiver, and all other information necessary to illustrate compliance with these regulations for the DRB to make its decision. Other information includes property identification numbers of the property taken from the latest tax records; name and address of the owner of record and those of adjoining lands; name and address of person or firm preparing the map; and scale of map, north point, and date. In addition to the information noted above, the DRB may require the following:

- A. An accurate map of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights of way, land use, and deed restrictions.
- B. A scaled plan showing proposed structure locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; and landscaping plans, including site grading, landscape design, and screening.
- C. Other pertinent information to go before the DRB.

§5.5.5 Waiver Review Criteria

The DRB may grant waivers to reduce setback requirements if the applicant can satisfy the following standards:

- A. The waiver requested is for a use permitted within the district.
- B. The waiver requested is in conformance with the town plan and the goals set forth in the Town Plan.
- C. The waiver requested is designed to conform to the character of the land use area in which it lies as defined in the Town Plan and further designed to reasonably limit impact or the potential for impact upon neighbors.
- D. The design incorporates elements, screening, or other remedies to reasonably limit the impact on abutters.

§5.5.6 Decision

The DRB shall make its decision on the request for waiver by applying the facts presented in the application and at the public hearing based on the criteria listed above and incorporating all into its decision. Upon the close of the public hearing, the DRB shall issue its decision pursuant to the procedure established for variances.

§5.5.7 Conditions

In approving a project, the DRB shall act to ensure and may impose conditions requiring that the waiver, if authorized, would represent the minimum waiver that would afford relief and would represent the least deviation possible from the zoning regulation and from the plan. The nature of any waiver and any conditions attached to it shall be entered on the face of the zoning permit incorporated therein and shall be enforceable in the same manner as all other applicable requirements of these regulations.

§5.6 Development Review Board Approval of Site Plans

In accordance with §4402 and §4414 of the Act, no zoning permit shall be issued by the Zoning Administrator for any multi-family dwellings, commercial, or industrial uses that require new construction or increase the intensity of use for existing structures and parcels or for public and quasi-public uses or parking and recreation facilities made available to the public until the DRB grants site plan approval. In instances where conditional use approval from the DRB is also necessary, site plan approval must be obtained first.

§5.6.1 Site Plan Information

Every application for a site plan approval shall include submission of the following plans and supporting information:

- A. Name and address of the owner of record and adjoining lands, the name and address of the person preparing the map, the scale of the map, north point, and the date.
- B. Perimeter lines of the property showing existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, lakes, rivers, streams, land use, and deed restrictions.

C. A site plan showing proposed structures, locations, and land use areas; streets, driveways, traffic circulation, parking and loading spaces, and pedestrian walks; landscaping plans, including site grading, landscaping design and screening; and septic and water systems used.

D. The proposed construction sequence and scheduled timeline for completion of each phase of the entire development.

§5.6.2 Site Plan Review Criteria

Upon receipt of the site plan, the DRB shall review the plans and supporting information. In rendering its approval, the DRB may impose appropriate conditions and safeguards with respect only to the adequacy of traffic areas, circulation and parking, and landscaping and screening. In rendering its decision, the DRB shall find that the applicant has taken reasonable steps to meet the following objectives:

A. Harmonious relationship between proposed uses and existing adjacent uses.

B. Maximum safety of vehicular circulation between the site and the street network.

C. Adequacy of circulation, parking, and loading facilities within the site with particular attention to safety.

D. Adequacy of landscaping, screening, and setbacks in regard to achieving maximum compatibility and protection to adjacent property.

In order to achieve these objectives, the DRB shall apply the performance standards in §5.6.3, §5.6.4, §5.6.5, §5.6.6, and where specific performance standards imposed in the Village and Interchange Areas per §5.6.7 and §5.6.8 are applicable.

§5.6.3 Harmonious Relationship

A. Where the proposed project site abuts a residential use, a 15-foot buffer strip shall be maintained.

B. Site lighting shall be dark-sky compliant and shall not cause glare or other unwarranted intrusions into abutting properties.

C. Stormwater run-off and treatment shall be dealt with onsite.

D. Dumpsters and trash storage shall be located in an accessible location to the rear of the building or site. This area shall be screened from view of abutting properties and public roadways.

§5.6.4 Vehicular Circulation and Access

A. The applicant shall obtain State and town access permits prior to the site plan review.

B. The applicant is responsible for vehicle stacking and may be required to upgrade public roadways with turn lanes if trip-end estimates call for them.

§5.6.5 Circulation, Parking and Loading

A. Aisles between parking rows shall be as follows:

Parking Angle (degrees)	Space Width (feet)	Space Length (feet)	Aisle Width 1-way (feet)	Aisle Width 2-way (feet)	Width At Curb (feet)
90	10	20	24	24	10
60	10	20	18	20	11
45	10	20	15	20	13
30	10	20	12	20	18
Parallel	10	20	12	24	20

B. The number of off-street parking spaces shall meet the requirements of §4.7 unless it can be demonstrated the public interest is served by an increase or decrease in the number of specified spaces. Stalls shall be oriented so that vehicle headlamps do not illuminate residential properties. Site limitations shall not be grounds for alteration of these requirements.

C. Loading and delivery docks shall be located to the rear of the building. Delivery vehicles shall be able to maneuver within the site without using the public right-of-way.

§5.6.6 Landscaping, Screening, and Setbacks

A. The property owner shall plant materials appropriate to the soil and moisture conditions of the particular location. All plant stock intended to fulfill these landscaping requirements must be hardy to USDA Zone 4 or lower.

B. Tolerance for Site Conditions: Plantings should be tolerant for salt, drought, hydrophilic soils, wind, and any other adverse site conditions.

C. Plants on the list of invasive species (available at Vermont Agency of Natural Resources, Vermont Invasive Exotic Plant Committee) shall not be used.

D. Where a site abuts a residential use, a 15-foot buffer strip shall be maintained. Where tree lines currently exist at the property line, they shall be maintained at current densities; otherwise, trees and shrubs shall be planted at sufficient densities to screen the residential properties.

E. Landscape requirements for public road frontage: Where reasonable, suitable hardwood shade trees shall be planted where there are or otherwise would be no trees. Where possible at least one shade canopy tree shall be planted or maintained every 40 feet along the frontage of each lot. All new trees shall measure at least 2 1/2 inches in diameter measured at a point 1 foot above ground line at the time of planting. Where overhead utility lines prevent planting of tall trees, the applicant shall substitute dwarf or semi-dwarf varieties.

F. Function: Plantings should be suited to the aesthetic and functional needs of the site and should not be put in unsafe locations.

G. All landscaping required by a notice of decision, finding of fact, or permit condition shall be installed before the issuance of a final Certificate of Compliance, and any such landscaping shall be maintained for the life of the use.

§5.6.7 Village and Interchange Area Site Plan Provisions

A. Approved buildings in the Village and Interchange Areas shall be two and a half story gabled roof structures or buildings of at least two stories in the Colonial or Federalist styles in the general generic shape of those illustrated below:



Dutch colonial



Georgian hipped



gothic center gable



Italian hipped



prairie



Victorian



federal side gabled



Greek revival side-wing

B. Wherever possible in the Village and Interchange Area, parking shall be to the rear of the site. In the Village Area, where not possible, parking shall be to the side of the building. Parking shall never be located in front of a new building in the Village Area.

C. Landscaping: Provide grass, trees, shrubs, flowers and similar landscaping in new site development, particularly in the front and highly visible areas of the property.

D. Identify any existing trees on the property survey which have a caliper of eight inches or more. These trees should be shown on all plans during site plan review. Attempt to incorporate these existing trees into new site plan development to reduce waste and salvage older trees.

E. Outdoor storage of materials, inventory or equipment shall be located to the rear of the site and screened from both abutting property and the public roadway by landscaping or fencing sufficient for the purpose.

§5.6.8 Administrative Review

The Zoning Administrator may review and approve minor amendments to previously approved development that would otherwise require review by an appropriate municipal panel in accordance with the provisions of the Act where no material changes or impacts are expected and where UDB conformance is found. Any decision by the Zoning Administrator under this subsection may be appealed as provided in §6.7 (4465 and 4466). However, the authority to approve an application administratively does not mean that the Zoning Administrator is required to do so. The Zoning Administrator reserves the right to refer any application to the DRB where it is deemed that Board-level review or interpretation is appropriate or necessary. In such cases, the applicant shall be responsible for any additional fees or submittals needed for DRB review. The Zoning Administrator shall notify the DRB of all actions made under this section within 48 hours.

§5.7 Hearing and Notice Requirements and Procedures

§5.7.1 Notice Procedures

All DRB applications under procedures set forth in this section shall require notice as follows.

- A.** A warned public hearing shall be required for conditional use review, variances, waivers, Zoning Administrator appeals, site plan reviews, 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 of the following notifications:
- 1.** Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality.
 - 2.** 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.
 - 3.** Written notification to the applicant and to owners of all properties adjoining the property subject to development, including the owners of properties that 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, including written notification to the NH Secretary of Transportation. The notification shall include a description of the proposed project and shall be accompanied by 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.
- B.** The applicant may be required to bear the cost of the public warning and the cost of notification of adjoining landowners through the payment of application fees.
- C.** The Zoning Administrator will also make public notice through other effective means, such as a notice board, municipal website, and email list.
- D.** No defect in the form or substance of any requirements in A. 1. or 2. of this subsection shall invalidate the action of the DRB where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Environmental Division of the Vermont Superior Court or by the DRB itself, the action shall be remanded to the applicable municipal panel to provide new posting and notice, hold a new hearing, and take a new action.

§5.7.2 Decisions

- A.** The DRB may recess the proceedings on any application pending submission of additional information. The DRB should close the evidence promptly after all parties have submitted the requested information. The DRB shall adjourn the hearing and issue a decision within 45 days after the adjournment of the hearing, and failure of the DRB to issue a decision within this period shall be deemed approval and shall be effective on the 46th day upon granting of a petition to that effect by the Environmental Division of the Vermont Superior Court. Decisions shall be issued in writing and shall include a statement of the factual bases on which the DRB has made its conclusions with a statement of the conclusions. The minutes of the meeting may suffice, provided the factual bases and conclusions relating to the review standards are provided in conformance with this subsection.

B. In rendering a decision in favor of the applicant, the DRB may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of this chapter and the pertinent UDBs and the municipal plan then in effect. A UDB may provide for the conditioning of permit issuance on the submission of a bond, escrow account, or other surety in a form acceptable to the Selectboard of the Town of Fairlee to assure one or more of the following: the completion of the project, adequate stabilization, or protection of public facilities that may be affected by a project.

C. Unless waived by the applicant in an uncontested application, any decision shall be sent by certified mail within 15 days to the applicant and the appellant in matters on appeal. Copies of the decision shall also be mailed to every person or body appearing and having been heard at the hearing. A copy of the decision shall be filed with the Zoning Administrator and the clerk of the municipality as a part of the public records of the municipality.

D. Conditions may require that no zoning permit, except for any permits that may be required for infrastructure construction, may be issued for an approved development unless the streets and other required public improvements have been satisfactorily installed in accordance with the approval decision and pertinent UDBs. In lieu of the completion of the required public improvements, the DRB may require from the owner for the benefit of the municipality a performance bond issued either by a bonding or surety company approved by the Selectboard of the Town of Fairlee or by the owner with security acceptable to the Selectboard of the Town of Fairlee in an amount sufficient to cover the full cost of those new streets and required improvements on or in those streets or highways and their maintenance for a period of 2 years after completion as is estimated by the DRB or such municipal departments or officials as the DRB may designate. This bond or other security shall provide for and secure to the public the completion of any improvements that may be required within the period fixed in the subdivision UDBs for that completion and for the maintenance of those improvements for a period of 2 years after completion. The performance bond required by this subsection shall run for a term to be fixed by the DRB, but in no case for a term longer than 3 years. However, with the consent of the owner, the term of that bond may be extended for an additional period not to exceed 3 years. If any required improvements have not been installed or maintained as provided within the term of the performance bond, the bond shall be forfeited to the municipality and upon receipt of the proceeds of the bond, the municipality shall install or maintain such improvements as are covered by the performance bond.

E. The Selectboard may enter into an agreement governing any combination of the timing, financing, and coordination of private or public facilities and improvements in accordance with the terms and conditions of a municipal land use permit, if agreement complies with all applicable UDBs in effect.

§5.8 Certificate of Compliance

Where a DRB adjudication or approval is required, no use, occupancy, or public accommodation shall be allowed until the Zoning Administrator has confirmed compliance with permit terms and any special conditions imposed and certified as such through the issuance of a Certificate of Compliance. Where new construction of a principal structure or accessory dwelling unit requires a zoning permit, no use, occupancy, or public accommodation shall be allowed until the Zoning Administrator has confirmed compliance with permit terms and any special conditions imposed

and certified as such through the issuance of a Certificate of Compliance. Prior to the issuance of any required Certificate of Compliance for development as described above, the Zoning Administrator shall first be satisfied that the proposed use of the structure or the land conforms to the requirements of the DRB approval, zoning permit, and/or any applicable requirement of the Town of Fairlee UDBs. As applicable, submittal of a RBES or CBES certificate by the applicant as required under 30 VSA §51-53 shall be needed prior to issuance of a Certificate of Compliance. If the Zoning Administrator determines that the use or occupancy is not in conformance with the approval/permit/UDBs, the Zoning Administrator shall refuse to issue a Certificate of Compliance stating the cause for the denial in writing to the applicant. Such a denial is a decision liable to appeal.

§5.9 Appeals

§5.9.1 Appeals of Decisions of the Administrative Officer

An interested person may appeal any decision or act taken by the Zoning Administrator by filing notice of appeal with the DRB. If the appeal is taken with respect to a decision or act of the Zoning Administrator, such notice of appeal must be filed within 15 days of date of such decision and a copy of the notice of appeal shall be filed with such officer. If the Zoning Administrator fails to act with regard to an application for a permit within 30 days, a permit may be deemed approved upon the petition of the applicant for relief from the DRB or Environmental Court.

§5.9.2 Appeals of Decisions of the Development Review Board

An interested person may appeal a decision of the DRB to the court of the county in which the property is located in accordance with §4471, Title 24 V.S.A. Such appeal shall be taken within 30 days of the date of issuance of a decision.

§5.10 Penalties

Violations of this UDB shall be regulated as outlined in 24 VSA §4444 and 4445. Prior to the issuance of a notice of violation, the Zoning Administrator shall conduct a good faith investigation of the alleged violation and be satisfied that such a violation has in fact occurred. Notification shall be by return-receipt postage and copies of the violation complaint and a report of the investigation shall be made available to the Planning Commission, the DRB, and the Selectboard. The Zoning Administrator shall pursue further enforcement action, if required, in a manner as provided for under Town of Fairlee UDBs, ordinances, and State statute.

ARTICLE VI. SUBDIVISIONS

§6.1 Subdivision Approval Procedures

Subdivisions involve the creation of new lots from existing ones. All subdivisions require filing a new plat with the Town to record them. However, not all of these are regulated under this UDB. For the purposes of this section, the following are not regulated subdivisions:

- The filing of a plat for an existing lot that does not currently have a plat.
- The annexation of one lot onto another lot in its entirety.
- The creation of one additional compliant lot (that shall require a zoning permit) on any lot in the Residential District as it existed on the date of the adoption of this UDB.

The Zoning Administrator shall notify abutters in writing of any such permits issued and of the 15-day appeal period.

Minor Subdivision Application Procedures: These procedures cover subdivisions that result in three or fewer lots, do not have lands in the special flood hazard area or river corridor, are not in the Rural Resource Area, have frontage on Town highways, or in the opinion of the Zoning Administrator lack complicated site conditions (i.e., steep slopes, wetlands, poor drainage requiring remediation, or shared utilities or drives).

Sketch Plan Phase: Preliminary, informal, public meeting with DRB and classification of project.

Final Plan/Plat Submission: A public hearing is held within 180 days after initial sketch plan discussion.

DRB Public Hearing: A public hearing is held within 30 days after final plan submittal and includes written evidence of approval by all governmental agencies where approval is required by statute or administrative procedure.

Notice of Decision issued by DRB: A notice of decision is issued within 45 days after adjournment of the Public Hearing.

Plat Recording Mylar Delivered to the Zoning Administrator: A mylar is delivered within 180 days after DRB approval.

Submission of As-Built Drawings: If applicable and upon completion, as-built drawings are submitted to the Zoning Administrator.

Major Subdivision Application Procedures: These procedures cover subdivisions that result in four or more lots; subdivisions that require any new road in excess of 800 feet in length; or any commercial, industrial, or recreational project, including multi-family housing projects, planned residential development, or planned unit development, or a series of minor subdivisions.

Sketch Plan Phase: The Sketch Plan Phase is a preliminary, informal public meeting with the DRB and includes classification of the project.

Preliminary Plan Application: After the initial public meeting, the Preliminary Plan application must be submitted within 180 days after initial public meeting.

First Public Hearing: A first public hearing occurs within 45 days after the preliminary plan application is submitted.

Final Plan Application: The submission of the Final Plan application occurs within 180 days after preliminary plan approval by the DRB.

Final Public Hearing: Within 30 days after final plan application approval, the Final Public Hearing is scheduled, which includes written evidence of approval by all governmental agencies having jurisdiction over the project.

Notice of Decision by the DRB: Within 45 days after the Final Public Hearing, the DRB issues a notice of decision.

Plat Recording (Mylar) Delivered to the Zoning Administrator: The mylar is delivered to the Zoning Administrator within 180 days after DRB approval.

6.1.1 Sketch Plan Phase

The Sketch Plan Phase is an informal presentation to the DRB and is not a warned public hearing. A sketch plan presentation enables the DRB and the applicant to discuss site features, lot layouts, roads and maintenance arrangements, and agreements in a give-and-take conversation. It is designed to give the subdivider informed knowledge of the expectations of the DRB in the subsequent public hearing stages of the application. While a scale drawing is not required for a sketch plan presentation, the map presented should be sufficiently accurate to determine the relative sizes of the lots and indicate all rights-of-way, major natural or man-made features, and all property lines. A sketch plan, required for all major and minor subdivision applications, is highly recommended for lot line adjustments and is optional for annexations. At the conclusion of the sketch plan discussion, the DRB may:

- A. Recommend further discussion at the sketch plan level. The subdivider, however, retains the right to make application for a preliminary review hearing.
- B. Refer major subdivision proposals to preliminary hearing and may be useful to both minor subdivisions and lot line adjustments.
- C. Refer minor subdivision proposals, lot line adjustments, and annexations directly to a final approval hearing.

§6.1.2 Preliminary Approval

The Preliminary Approval takes place in a warned public hearing conducted per public hearing procedures as specified in §5.7. The purpose of the Preliminary Approval is to ensure issues discussed in the Sketch Plan Phase have been addressed, other required State and local permits are

in process or have been obtained, and identify other deficiencies to be addressed for final approval. At the conclusion of the Preliminary Approval Hearing, the DRB may:

- A. Recess the hearing to a date certain to generate further information or plat elements.
- B. Refer the application to a Final Approval hearing.

§6.1.3 Final Approval

The Final Approval takes place in a warned public hearing conducted per public hearing procedures as specified in §5.7. This is the final public hearing for major subdivision proposals, and the plat as presented shall meet all requirements per this article and be ready for acceptance as a mylar printed plat. At the conclusion of a final approval hearing, the DRB may:

- A. Recess the hearing to a date certain to allow submission of an acceptable plat as required by this Article or to conform to DRB conditions.
- B. Accept the plat and sign any presented mylar.
- C. Accept the plat and require the submission of a mylar for signing within 180 days of the closing of the hearing.

§6.1.4 Plat Signing

The plat mylar shall be submitted within 180 days of approval by the DRB. Before a plat mylar is recorded, it shall be inspected by the DRB to ensure it complies with the final approval map. The mylar shall be 24" x 18" in dimension. This plat mylar shall then be stamped with an ink stamp provided for this purpose and signed by two members of the DRB certifying compliance with the final approval. The plat mylar must be submitted within 180 days of the close of the final approval hearing or the approval is void per V.S.A. T.24§4418.

§6.2 Plat Submission Requirements

Submission requirements are determined by classification as either major or minor subdivisions. Major subdivisions by definition are subject to the full requirements of this Article and classification as such can be triggered by the DRB when it is found that site conditions (e.g., topography, slope, soils, or wetlands) require greater definition, or at any time an Act 250 Land Use Permit is required by the VT Agency of Natural Resources. Minor subdivisions are characterized by lot counts below the trigger for Act 250 permitting, and they lack complicated site conditions and involve relatively simple access and easement arrangements.

§6.2.1 General Requirements

All submitted plats shall conform to the following standards and requirements:

- A. The submittal shall be made in three copies and a digital copy of the survey plat shall be submitted in portable document format (PDF) that meets the digital survey standards established by The Board of Land Surveyors for digital copies of survey plats, and such plats shall be compatible with Vermont Center for Geographic Information standards.
- B. Maps shall be at a scale per Table 1, include boundaries of the subdivision parcel(s), date, true north point, and scale.

Table 1

Distance on Map (inches)	Feet on Ground	Scale
1	200	1:2400
1	400	1:4800
1	1000	1:12000
1	2000	1:24000

C. A completed subdivision permit application form is obtainable from the Zoning Administrator or available on the Fairlee Town website.

D. The applicant must provide all supplemental information requested by the DRB from the Sketch Plan (discussion) Phase.

E. A description of the proposed water supply shall be provided. If the source is an existing community water supply system, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with applicable State and local health regulations.

F. Description of the proposed sewage disposal system(s) shall be provided. If on-site sewage disposal is proposed, a licensed professional engineer's or certified site technician's report and plans prepared in conformance with State and local health regulations shall be submitted. If a community sewage disposal system is to be used, evidence of the right to use such system and an engineer's statement of the adequacy of the system to handle the additional sewage shall be submitted. If no septic system is proposed, then the mandatory deed notice shall also be included on the plat in no less than 12-point font.

G. The following shall be provided: All existing and proposed right-of-way lines, widths of roads, typical road profiles, dimensions of all lot lines, and size of all lots. Also included are locations of all buildings, walkways, amenities, utilities, and other man-made improvements. Current forest edge, proposed cut lines, and building envelopes shall be included. Where such are not proposed, a condition prohibiting these improvements shall be included in the subdivision permit.

H. A description of any proposed covenants and/or deed restrictions that are intended to cover all or part of the subdivision shall be provided.

I. A description of the homeowners' association or other forms of management organization, if one is proposed, shall be provided.

J. Lots should be of ordinary shape and compact layout unless a compelling public interest or site feature can be identified that dictates otherwise.

§6.2.2 Additional Requirements for Boundary Adjustments and Annexations

Boundary adjustments shall be heard only for joint applications by both property owners. In the case of annexations, the applicant shall demonstrate legal ownership of both parcels in question.

§6.2.3 Classification Trigger for Major Subdivision Application

Any subdivision of land requiring an Environmental Board Act 250 Land Use Permit shall be treated under this Article as a major subdivision subject to Sketch Plan and hearings. Major

subdivisions are subject to the requirements listed above and the increased requirements as listed in §6.3.

§6.2.4 Suitability Restrictions

All land to be subdivided shall be, in the judgement of the DRB, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment, or to critical resources, as identified in the Town Plan. Land designated as flood hazard areas or characterized by poor drainage or steep slopes or subject to other hazardous conditions shall not ordinarily be subdivided. No lot shall be created that is smaller in area than the minimum lot size required for the land use district in which it is located nor shall any lot be created without frontage on a public road or legally deeded and defined private right-of-way.

§6.3 Major Subdivision Design Requirements and Performance Standards

§6.3.1 Lot Layout/Siting

The layout of lots and the siting of structures shall conform to the requirements of the UDB and shall be appropriate for the intended construction.

A. The location of proposed roads, drives, utilities, septic areas, clearings, and building envelopes shall demonstrate reasonable efforts to preserve and protect existing features such as, but not limited to, mature trees, brooks, streams, rock outcroppings, water bodies, critical wildlife habitat, significant natural communities, forest blocks, and wildlife habitat connectors and corridors (Rural Resource Area only), historic resources, prime agricultural soils, and open meadowland per T.24 V.S.A. Chapter 117. Specifically, the following areas shall be treated as follows:

1. Wetlands, as identified and defined by the State of Vermont shall not be drained, filled, or altered to accommodate subdivisions. Proposals for the subdivision of a lot involving or adjacent to an identified wetland shall provide for adequate setbacks of roads, buildings, structures, and sewage systems from the wetland. Adequate setbacks shall be no less than 100 feet, but may be increased by the DRB accordingly to protect the following wetland values:
 - a. Water quality control.
 - b. Ground water supply.
 - c. Flood and erosion control.
 - d. Flora and fauna.
 - e. Education and recreation.
2. Subdivision involving or immediately adjacent to a deeryard, forest blocks, or wildlife habitat connectors and corridors identified and mapped by the State of Vermont shall be designed, sited, and undertaken in a manner compatible with the continued viability of such areas. Subdivision within a protected area boundary shall be permitted only where the DRB makes the following findings:

- a.** The parcel to be subdivided includes no land that is practical for subdivision except that which is in the protected area as stated above.
- b.** The subdivision can be designed and undertaken in a manner that minimizes the impact of the subdivision on the continued viability of the protected area as stated above.

B. Proposals for subdivision of a lot involving or adjacent to an identified critical wildlife habitat, corridors, or deeryards shall include a comment letter based upon consultation from representatives of the Vermont Department of Fish and Wildlife. Where subdivision takes place within a forest block, wildlife habitat corridors or deeryards that includes part or all such areas in the land base for the subdivision or the determination of its density, the remainder of the sensitive area owned by the applicant shall be managed in a manner compatible with the continued viability of those protected areas. This may include the preparation and implementation of a forest management plan approved by the Vermont Department of Fish and Wildlife.

- 1.** A subdivision in an Aquifer Recharge Area shall not result in the pollution of ground or surface waters or an unreasonable reduction of the supply of groundwater. The DRB shall consider such factors such as the amount and type of wastes to be generated by the proposed use, the adequacy of design for the proposed disposal system, and the capability of the land and water to sustain such use without degradation. In considering an application, the DRB may consult with the Vermont Department of Water Resources for assistance or require certification by a licensed professional engineer so that the project will not result in degradation.
- 2.** Subdivision of lands in agricultural use such as pasture, hayfields, or crops shall be permitted only where the DRB makes the following findings regarding the subdivision:
 - a.** Minimizes the disruption of the scenic quality of the site.
 - b.** Retains the maximum possible meadowland for agricultural use through such means as clustering under PUD provisions or reduction in allowable density, sale, or donation of development rights.
 - c.** Maximizes the use of the least productive land and the protection of primary agricultural soils.
 - d.** Shall not conflict with existing or potentially viable agricultural uses in the area.

C. Preservation of the productivity of forest land and the economic viability of the industry are matters of public good. Subdivisions in the Rural Resource Area that significantly prohibit the management or use of forest resources shall only be permitted when the public interest is clearly benefitted thereby. Such subdivision shall be permitted only where the DRB makes the following findings:

- 1.** The subdivision through the location of lot lines, development, or clearing will not significantly reduce the potential of the land resource for forestry.
- 2.** The applicant has demonstrated that the subdivision has been planned to minimize the loss of forestry potential by concentrating development at the forest edge near other development and roads, using small lot sizes and shapes so most of the land remains in a large undeveloped tract, and minimizing clearing of forest and the creation of additional roads or power lines that would further future development into interior

areas. Cutting plans shall be required to show proposed land clearing. Development envelopes shall limit new intrusion into forested areas by no more than 300 feet with the exception of permitted roads and trails.

D. Subdivision adjacent to those Town or State roads officially designated as scenic highways or highways generally accepted as exhibiting exceptional scenic character values shall be reviewed by the DRB to ensure that the siting of any proposed structure and any site alterations, including grading, filling, removal of trees, stone walls, or other existing landscape features are consistent with the scenic quality of the road, roadside, and area to minimize an interference with views or vistas afforded from the scenic road. To accomplish this purpose, the DRB may guide the location of structure(s) by varying setbacks, height, and other requirements of the district and may restrict or require landscaping or screening measures.

E. Energy conservation and energy efficient site planning and layout shall be encouraged in the review of a proposed subdivision.

§6.3.2 Roads

A. Layout: All roadways and intersections shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be logically related to the topography to produce usable lots and reasonable road grades. Wherever extensions of proposed roads could rationally provide public access to adjacent properties or connection to existing public State or Town highways, a right-of-way across the subdivided property may be required.

B. Traffic Management: If, in the judgement of the DRB a proposed subdivision presents the potential for significant traffic impact on Town or State roads, Village centers, or historic areas, a traffic impact study may be required. The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. When warranted, such studies shall be funded by the applicant, prepared by a qualified transportation planner or licensed professional engineer selected jointly by the applicant and the DRB.

C. Such studies shall include:

1. A description of the general location of the project.
2. A statement of existing traffic conditions and projected traffic conditions within 5 years.
3. A statement comparing the operating Level of Service (LOS) of the roadways(s) and/or intersection(s) in the Town with and without the proposed project(s) at the opening date of the project and within 5 years.
4. A statement of recommendations outlining any adverse traffic impact of a proposed project and the necessary improvements to provide an acceptable operating LOS.

Based upon a review of the study, the DRB shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision, as follows:

A. Location and Design of Intersection: Intersections with existing roadways shall be as close to 90 degrees as possible. Approaches to intersections with existing roads shall be at a maximum grade of 3% for a distance of 100 feet from the edge of the travel lane. Intersections shall be located to provide at least a minimum sight stopping distance in accordance with the following standards of the American Association of State Highway Officials in Table 2:

Table 2
Minimum Stopping Sight Distance

Design Speed of Roadway Section (mph)	Sight Stopping Distance (feet)
30	176
40	263
50	369

The DRB may restrict the frequency of access or impose special intersection design requirements along all Town highways at the direction of the Town Road Commission.

B. Design Standards for Town Roads: All highways proposed for acceptance by the Town shall comply with A-76 State of Vermont Design Standards and any revisions made thereto, the Town of Fairlee Road and Bridge Standards of 2013, and any subsequent amendment thereof as adopted by the Road Commission.

C. Cul de Sacs: All dead-end roads in excess of 800 feet in length shall terminate in a turnaround having a minimum outside radius of 50 feet and a travel lane width of 20 feet unless otherwise required for emergency vehicle access.

D. Road Maintenance: The maintenance of all roads, not designated as Class 3 Town Highways or higher, shall be the responsibility of the subdivider. The subdivider shall supply evidence and assurance that said roads will be adequately maintained either by the subdivider or by an owners' association.

E. Curb Cuts on Existing Roads: The total number of curb cuts permitted on each side of a continuous length of road frontage on a parcel shall not exceed the number set forth in the following Table 3. These limits shall not apply to farm entrances used solely to gain access to a field for agricultural or temporary forestry purposes. In calculating the number of curb cuts permitted, any curb cut in existence prior to the effective date of adopting these regulations or constructed thereafter shall be included per Table 3:

Table 3

Continuous Road Frontage of Parcel	# of Curb Cuts Permitted
0–799 feet	2
800–1599 feet	3
Each additional 800 feet	1 additional curb cut

Re-subdivision of a parcel after the effective date of adoption shall not create a right to construct any curb cut in addition to those permitted in the above Table 3.

§6.3.3 Parking

Parking requirements shall be as established in §4.7 of this UDB. However, the DRB may require additional parking if, in its judgement, more parking is needed to accommodate the proposed development.

§6.3.4 Pedestrian Access

The DRB shall require rights-of-way to facilitate pedestrian circulation within the subdivision and ensure public access through the property to adjoining properties or uses.

§6.3.5 Power and Telecommunication Infrastructure

The DRB may require the underground installation of power and telecommunication infrastructure, wherever it is duly necessary to maintain and protect the visual character of a highly sensitive area. A diagram showing location of utility lines shall be submitted with the as-built drawings.

§6.3.6 Drainage and Erosion Control

A. The DRB shall require such temporary and permanent drainage and erosion control techniques as may be necessary to control surface runoff in compliance with Vermont Water Quality Standards. Factors to be considered in determining the types of controls necessary shall include vegetation and ground cover, slopes, soil types, percentage of land covered by impermeable surfaces, distances to streams, and impact on adjacent properties.

B. The DRB may require the phasing of construction to reduce the amount of land disturbed by construction at any one time and may stipulate deadlines for the installation of erosion control or soil stabilization measures.

C. For the purposes of calculating the amount of surface runoff, a minimum 100-year storm precipitation factor shall be used.

D. The DRB shall require determination of the effect of the subdivision on the existing downstream drainage capacity outside of the area of the subdivision. Where the DRB anticipates that the increased runoff will overload the capacity of the downstream system, it may request the subdivider to delay construction until capacities are adequate and may request the subdivider to assist in the capacity improvements deemed necessary.

§6.3.7 Fire Protection

The DRB shall require the provision of facilities necessary for adequate fire protection. Such facilities shall be designed in consultation with the Fairlee Fire Department and shall be approved by the Town of Fairlee Fire Chief.

§6.3.8 Provision of Buffer Areas

The DRB may require greater setbacks from property boundaries than specified in the UDB in order to create buffer zones. Conditions for requiring buffer areas shall include, but not be limited

to, lack of dense vegetation, proximity to scenic highways, heightened visibility due to differences in elevation, concentration of uses on the site as permitted by PUD, cluster provisions of the UDB, and incompatibility of adjacent uses or other aesthetic considerations. The DRB may request that the subdivider coordinate buffer zones on the parcel with buffer areas on adjoining parcels in order to provide a continuous system of greenbelts.

§6.3.9 Site Preservation and Improvements

A. Natural Cover: Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut, and fill and to retain, insofar as possible, the natural contours, limit stormwater runoff, and conserve the natural cover and soil.

B. Shade Trees: The DRB may require that suitable hardwood shade trees be established in areas where trees do not exist. The DRB shall determine the minimum acceptable size of trees.

C. Excavation and Grading: The DRB shall require a program of landscaping, soil stabilization, and the establishment of appropriate, permanent vegetative cover following excavation or grading. The DRB may also require embankments to be planted with a stabilizing shrub or groundcover to prevent erosion.

D. Projects involving blasting, retaining walls, or major modification of existing topography must show that there are no reasonable development alternatives on the lot. No new slopes may be created with a grade greater than 1:3. Disturbance of steep slopes (over 25%) shall be minimized. Subdivisions on slopes greater than 25% shall require a licensed professional engineer to certify that they do not pose a landslide or erosion risk.

§6.3.10 Disclosure of Subsequent Development Plans

Whenever a subdivider submits a proposal for development on only a portion of a contiguous parcel, the DRB may require a general indication of the intended uses of the remaining portion of land during the Sketch Plan Phase. Such an indication should include access, type of use, intensity of use, and phasing.

§6.4 General Conditions

§6.4.1 Completion Date

Each approval for a Final Plan shall contain a time limit within which all improvements shall be completed not to exceed 3 years, unless required or extended by the DRB.

§6.4.2 Completed Site Plan

Submittal of an as-built plan shall be required prior to the use or occupancy of any major subdivision and may be required by the DRB for a minor subdivision. This plan shall be drawn to scale and shall indicate by dimensions, angles, and distances the location of all utilities, structures, roadways, easements, and other improvements as constructed. As-built plans shall be submitted by the subdivider to the Zoning Administrator on a mylar of an 18" x 24" size.

§6.4.3 Revision of Approved Plat

No changes, modifications, or revisions that alter the conditions attached to a Subdivision Permit shall be made unless the plat is first resubmitted to and approved by the DRB after a public hearing. In the event that such a subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.

§6.4.4 Public Acceptance of Roads and Open Spaces

Nothing in this UDB shall be construed to constitute the acceptance by the Town of any road, easement, utilities, park recreation area, or other open space shown on the Final Subdivision Plan. The DRB may require the filing of a written agreement between the applicant and the Selectboard covering future deed and title, dedication and provision of the cost of grading, development, equipment, and maintenance of any such improvements or may require of an applicant an agreement to waive any future rights to petition the Town to have roadways within the subdivision accepted as public streets. The DRB may require the filing of a written agreement between the applicant and the Selectboard waiving any existing or future claim by the applicant and/or its heirs, successors, and assigns regarding the Town's obligation to accept any road or other improvement as a Town facility as shown on the Final Subdivision Plan and providing for the future grading, development, equipment, repair, and maintenance of any such road or other improvement by the applicant and/or its heirs, successors, and assigns. Consistent with the objectives of the Town Plan, and in accordance with 10 V.S.A., Chapter 155, the Town may accept less than fee interest in property to protect its open, scenic, or resource value. Donation of such a conservation easement to a qualified non-profit organization may also serve as a means of meeting Town Plan objectives. In either case, written agreements between the parties shall be required.

§6.4.5 Compliance with Other UDBs

Nothing in this UDB shall be so construed as to supersede the conditions and criteria for permit approval set forth in other UDBs or ordinances in effect. This includes, but is not limited to, conditional use criteria, planned unit development requirements set forth in the UDB, and water and sewer requirements stipulated in an adopted Health Ordinance.

§6.4.6 Performance Bond Requirements

The DRB may require from the applicant for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvements that the DRB may require in approving the project. Such performance bond shall be submitted prior to Final Plan approval. Security that the project shall be completed, as approved, may be required in the form of the following:

- A. A surety bond, issued by a surety company authorized to do business in Vermont and to be filed with the Selectboard in form and amount satisfactory to it.
- B. A letter of credit, cash, escrow account, or savings bank book properly endorsed to the Town in an amount to be determined by the Selectboard.
- C. A performance bond from the developer or contractor.

The performance guarantee shall not be released until the DRB has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plan. The

performance bond shall run for a term to be fixed by the DRB, but in no case for a longer term than 3 years. However, the term of such bond may, with the consent of the owner, be extended for an additional period not to exceed 3 years. If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the municipality and, upon receipt of the proceeds thereof, the municipality shall install or maintain such improvements as are covered by such performance bond. The DRB may also require surety covering the maintenance of said improvements for a period of 2 years after acceptance by the Town. Said surety to be equal to not less than 10% of the estimated cost of those improvements.

§6.4.7 Legal Data

Where applicable to a specific subdivision, the following may be required prior to approval of the Final Plan:

- A.** An agreement to convey to the Town land to be used for roads, open space, and other public purposes.
- B.** An agreement to maintain roads, parks, recreation areas, and other improvements in the future and to waive any claims regarding the Town's obligation to accept said improvements as Town facilities.
- C.** Descriptions of easements and rights-of-way over property to remain in private ownership.
- D.** Descriptions of easements to drain onto or across other property.

ARTICLE VII. FLOOD HAZARD REGULATIONS

§7.1.1 Statutory Authorization and Effect

In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 §4414, and 24 VSA Chapter 59, there is hereby established a UDB for areas at risk of flood damage in the Town of Fairlee, Vermont. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117.

§7.1.2 Statement of Purpose

It is the purpose of this UDB to:

- A. Implement the goals, policies, and recommendations in the current Town Plan.
- B. Avoid and minimize 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.
- C. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with public well-being and does not impair stream equilibrium, flood plain services, or the stream corridor.
- D. Manage all flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 §753, the municipal hazard mitigation plan, and make the Town of Fairlee, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

§7.1.3 Other Provisions

A. Precedence of UDB: The provisions of these flood hazard regulations shall not in any way impair or remove the necessity of compliance with any other local, State, or Federal laws or regulations. Where this flood hazard regulation imposes a greater restriction, the provisions here shall take precedence.

B. Validity and Severability: If any portion of this UDB is held unconstitutional or invalid by a competent court, the remainder of this UDB shall not be affected.

C. Warning of Disclaimer of Liability: This UDB does not imply that land outside of the areas covered by this UDB will be free from flood or erosion damages. This regulation shall not create liability on the part of the Town of Fairlee or any municipal official or employee thereof for any flood or erosion damages that result from reliance on this regulation or any administrative decision lawfully made hereunder.

§7.1.4 Lands to Which These Regulations Apply

A. Flood Hazard Overlay Areas: These regulations shall apply to the River Corridors and Special Flood Hazard Areas (hereafter called “hazard areas”) in the Town of Fairlee, Vermont, as described below. These hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying district. These hazard areas include:

1. 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 that are hereby adopted by reference. Where River Corridors are not mapped, the standards in VII C shall apply to the area measured as 50 feet from the top of the stream bank or slope of perennial streams.

2. Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program, as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 32 §753, which are hereby adopted by reference and declared to be part of these regulations.

B. Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas: Where available, base flood elevations and floodway limits provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations. In Special Flood Hazard Areas where base flood elevations and/or floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by FEMA or State or Federal agencies.

C. Interpretation: The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. 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 (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall *constitute proof*.

2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall *constitute proof*.

§7.2 Summary Table: Development Review in Hazard Areas

The hazard areas are not appropriate sites for new structures nor for development that increases the elevation of the base flood or obstructs the ability of streams to establish and maintain geomorphic equilibrium.

#	Activity	Hazard Zone		
		Special Flood Hazard Area	Floodway	River Corridors
	P Permitted C Conditional Use Review X Prohibited A Exempted			
1	New Structures	X	X	X
2	Storage	X	X	X
3	Improvements to Existing Structures	P, C	C	C
4	Small Accessory Structures	P	X	C

5	At Grade Parking	P	C	C
6	Replacement water supply or septic systems	C	C	C
8	Fill as needed to elevate existing structures	C	C	C
9	Fill	X	X	X
12	Grading	C	C	C
13	Road maintenance	A	A	A
14	Road improvements	C	C	C
15	Bridges and culverts	C	C	C
16	Channel management	C	C	C
17	Recreational vehicles	P	P	P
18	Open space, recreation	A	A	A
19	Forestry	A	A	A
20	Agriculture	A	A	A

§7.3 Development Review in Hazard Areas

A. Permit: A permit is required from the Zoning Administrator for all development in all areas defined in Section IV. Development that requires conditional use approval, non-conforming use approval, or a variance from the DRB under these flood hazard regulations, must have such approvals prior to the issuance of a permit by the Zoning Administrator. Any development subject to municipal jurisdiction in the designated hazard areas shall meet the criteria in Section VI and VII. Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. Permitted Development: For the purposes of review under these regulations, the following development activities in the Special Flood Hazard area where outside of the floodway and outside of the River Corridors, and meeting the Development Standards in Section VII require only an administrative permit from the Zoning Administrator:

1. Non-substantial improvements.
2. Accessory structures.
3. Development related to on-site septic or water supply systems.
4. Building utilities.
5. At-grade parking for existing buildings.
6. Recreational vehicles.

C. Prohibited Development in Special Flood Hazard Area and River Corridors:

1. New residential or non-residential structures (including the placement of manufactured homes).
2. Storage or junk yards.
3. New fill except as necessary to elevate structures above the base flood elevation.
4. Accessory structures in the floodway.
5. Critical facilities are prohibited in all areas affected by mapped flood hazards.
6. All development not exempted, permitted, or conditionally permitted.

D. Conditional Use Review: Conditional use review and approval by the DRB is required prior to the issuance of a permit by the Zoning Administrator for the following proposed development:

1. Substantial improvement, elevation, relocation, or flood proofing of existing structures.
2. New or replacement storage tanks for existing structures.
3. Improvements to existing structures in the floodway.
4. Grading, excavation, or the creation of a pond;
5. Improvements to existing roads.
6. Bridges, culverts, channel management activities, or public projects which are functionally dependent on stream access or stream crossing.
7. Public utilities.
8. Improvements to existing primary structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet.
9. Accessory structures in the River Corridors of 500 square feet or less that represent a minimal investment.
10. Building utilities in the River Corridors.
11. At-grade parking for existing buildings in the River Corridors.

E. Exempted Activities: The following are exempt from regulation under this UDB:

1. The removal of a building or other structure in whole or in part.
2. Maintenance of existing roads and stormwater drainage.
3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices.
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices. Prior to the construction of farm structures the farmer must notify the Zoning Administrator in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

F. Variances: variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. §4469, §4424 (E) and 44 CFR Section 60.6, after a public hearing noticed as described in Section VIII.

1. A variance for development within the River Corridors may be allowed if, based on a review by the Vermont Agency of Natural Resources, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
2. Any variance issued in the Special Flood Hazard Area will not increase flood heights and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation 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.

G. Nonconforming Structures and Uses: The DRB may, after public notice and

hearing, approve the repair, relocation, replacement, or enlargement of a nonconforming structure within a flood hazard area provided that;

1. The proposed development is in compliance with all the Development Standards in Section VII of this UDB.
2. A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the parcel. The lowest floor of the reconstructed structure must be rebuilt to 1 foot or more above the base flood elevation, and the structure must otherwise comply with all requirements of the National Flood Insurance Program.
3. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months.
4. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of nonconformity. Replacement manufactured homes must be placed to meet the development standards in this UDB.

§7.4 Development Standards

The criteria below are the minimum standards for development in the flood hazard areas. Where more than one zone or area is involved, the most restrictive standard shall take precedence.

A. Special Flood Hazard Area

1. All development shall be:
 - a. Reasonably safe from flooding.
 - b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure.
 - c. Constructed with materials resistant to flood damage.
 - d. Constructed by methods and practices that minimize flood damage.
 - e. 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.
 - f. Adequately drained to reduce exposure to flood hazards.
 - g. Located to minimize conflict with changes in channel location over time and the need to intervene with such changes.
 - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of 1 foot above the base flood elevation and be securely anchored to prevent flotation. Storage tanks may be placed underground if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1–A30 where base flood elevations and/or 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 1 foot at any point within the community. The demonstration must be supported

by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.

3. Structures to be substantially improved in Zones A, A1–A30, AE, and AH shall be located such that the lowest floor is at least 1 foot above base flood elevation, which must be documented in as-built condition with a FEMA Elevation Certificate.

4. Non-residential structures to be substantially improved shall:

a. Meet the standards in A. 3 above or have the lowest floor, including basement, together with attendant utility and sanitary facilities be designed so that 2 feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

b. A permit for flood proofing shall not be issued until a licensed 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.

5. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

6. Fully enclosed areas that are above grade, below the lowest floor, below BFE, and subject to flooding shall:

a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits.

b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed 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 1 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 1 foot above 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.

7. Recreational vehicles must be fully licensed and ready for highway use.

8. A small accessory structure of 500 square feet or less that represents a minimal investment need not be elevated to the base flood elevation in this area provided the structure is placed on the building site to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in 6 (above).

9. Water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

10. 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.

11. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

12. The flood carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of stream stability.

13. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.

14. Subdivisions and PUDs must be accessible by dry land access outside the special flood hazard area.

15. Existing buildings, including manufactured homes to be substantially improved in Zone AO shall have the lowest floor, including the basement elevated above the highest adjacent grade at least as high as the depth number specified on the community's FIRM, or at least 2 feet if no depth number is specified.

B. Floodway Areas

1. Encroachments or development above grade and less than 1 foot above the base flood elevation are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice by a licensed professional engineer certifying that the proposed development will:

a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood.

b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.

c. Public utilities may be placed underground, and the analyses may be waived where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. River Corridors

1. Improvements to existing structures and any associated fill as needed to comply with elevation requirements in the Special Flood Hazard Area shall not decrease the distance between the existing primary building and the top of bank.

2. Accessory structures may be located within 50 feet of the existing primary building provided that the location does not decrease the distance between the existing primary structure and the top of bank.

3. Development shall not increase the susceptibility of that or other properties to fluvial erosion damage.

4. Development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion.

5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.

6. Bridge and culvert projects must have a Stream Alteration Permit.

7. Channel management activities must be authorized by the Agency of Natural Resources.

§7.5 Administration

A. Application Submission Requirements: Applications for development shall include:

1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and 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. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approvals are required for the proposal and shall be filed as a required attachment to the municipal permit application. The identified permits or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit before work can begin.

B. Referrals:

1. Upon receipt of a complete application for a substantial improvement or new construction, 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 permit may be issued only following receipt of comments from the Agency or upon the 30-day expiration from the date the application was mailed to the Agency, whichever is sooner.
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 Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State 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 upon the 30-day expiration from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The DRB should consider comments from the NFIP coordinator at ANR.

C. Decisions: The DRB shall consider comments from the NFIP coordinator at the Agency of Natural Resources. The DRB may recess the proceedings on any application pending submission of additional information.

D. Records: The Zoning Administrator shall properly file and maintain a record of:

1. All permits issued in areas covered by this UDB.
2. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement of all new substantially improved or flood-proofed buildings (not including accessory buildings) in the Special Flood Hazard Area.
3. All flood proofing and other certifications required under this UDB.

4. All decisions of the DRB (including variances and violations) and all supporting findings of fact, conclusions, and conditions.

§7.6 Certificate of Compliance

In accordance with Chapter 117 §4449, it shall be unlawful to use, occupy, or permit the use or occupancy of any land or structure or part thereof created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure within Special Flood Hazard Area or River Corridors until a Certificate of Compliance is issued by the Zoning Administrator stating that the proposed use of the structure or land conforms to the requirements of this UDB. A Certificate of Compliance is not required for structures that were built in compliance with the UDB at the time of construction and have not been improved since the adoption of this UDB. Within 14 days of the receipt of the application for a Certificate of Compliance, the Zoning Administrator shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and that all work has been completed in conformance with the zoning permit and associated approvals. If the Zoning Administrator fails to grant or deny the Certificate of Compliance within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a Certificate of Compliance cannot be issued, notice will be sent to the owner and copied to the lender.

§7.7 Enforcement and Penalties

A. This UDB shall be enforced under the municipal zoning UDB in accordance with 24 V.S.A. Chapter 117 §4451 and §4452 and 24 V.S.A. Chapter 59 §1974a. A copy of the notice of violation will be mailed the State NFIP coordinator.

B. If any appeals have been resolved, but the violation remains, the Zoning Administrator shall submit a declaration to the administrator of the NFIP requesting a denial of flood insurance to the property pursuant to §1316 of the National Flood Insurance Act of 1968, as amended.

C. Violations of the Accepted Agricultural Practices shall be enforced under this Section as violations of this UDB. Such violations shall be immediately reported to the Secretary of Agriculture for enforcement under 6 V.S.A. §4812.

Article VIII. DEFINITIONS

For the purpose of this UDB, definitions of the following words and terms are to be interpreted as defined below, and all other words shall be presumed to be as defined in Webster's Unabridged Dictionary, unless such definition runs counter to the purposes and objectives of this UDB. The definition of terms in §4303 of the Act is hereby incorporated and made part thereof.

Accessory Use, Building or Structure(s) – A use or building(s) customarily incidental and subordinate to the principal use or building and located on the same lot. When applied to agriculture, this shall be deemed to include farm stands. An accessory building(s) shall not be used for human habitation.

Acre – 43,560 square feet.

Act – The Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117.

Administrator – The Federal Insurance Administrator.

Adverse Impact – Inadequate, unsafe, or unhealthy conditions that result from a land development.

Affordable Housing – **1.** Housing that is owned by its inhabitants whose gross annual household income does not exceed 80% of the county median income as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and association fees is not more than 30% of the household's gross annual income. **2.** Housing that is rented by its inhabitants whose gross annual household income does not exceed 80% of the county median income as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing including rent, utilities, and association fees is not more than 30% of the household's gross annual income.

Agricultural Purpose – Agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, silviculture, and animal and poultry husbandry. The terms shall not include the slaughtering of animals or poultry for commercial purposes.

Agricultural Use – The use of land containing at least 2 acres that is used for agricultural purposes.

Alluvial Fan Flooding – Flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high velocity flows, active processes of erosion, sediment transport, and deposition with unpredictable flow paths.

AMP – Appropriate Municipal Panel, a global term for a municipal board with the jurisdiction over one matter or another. AMPs include Selectboards, DRBs, Planning Commissions, and BCAs.

Antenna – A device attached to a tower or other structure for transmitting or receiving electromagnetic waves.

Annexation – The merger of previously subdivided lots into a unified parcel. Lots subject to an annexation must be in common ownership and may not be bisected by a public right-of-way or road.

Apartment Building – A multi-family dwelling containing five or more dwelling units.

Apartment House – A multi-family dwelling containing three to four dwelling units.

Apex – a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Applicant – The owner of land proposed to be subdivided or his/her representative. Any party with a legal interest in the property may apply in cooperation with the owner of the property.

Approval – A form of approval that shall be a written resolution prepared by the DRB and attached to the subdivision application or in the event that the DRB should fail to act within the 45-day time limit specified in Article II, Section 3 of this UDB, certification of such failure to act by the Town Clerk and recording of the approved application and subdivision plan with the Town Clerk is in accordance with the conditions set forth in Article II, Section 3 of this UDB.

Aquifer – A geological formation, group of formations, or part of a formation either composed of unconsolidated rock, sand, gravel, or other unconsolidated soils or composed of bedrock with an interconnected series of crevasses, fractures, joints, faults, cleavages, bedding planes, porosity, or other geologic features that allow groundwater to move in the subsurface environment and is capable of storing and yielding groundwater to wells and springs.

Area of Shallow Flooding – A designated AO or AH zone on a town's FIRM with a 1% or greater chance of flooding to an average depth of 1 foot to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity of flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard – The land in the floodplain within a town subject to a 1% or greater chance of flooding in a year.

Arts and Cultural Facilities – A space indoors or outdoors either in conjunction with public or business use or as a stand-alone principle use for the purpose as a gathering place for the display of art, performances, or community or social events.

Base Flood – The flood having a 1% chance of being equaled or exceeded in any given year.

Basement – Any area of a building having its floor sub-graded (below ground level) on all sides.

Buffer – Any space between adjoining uses intended and designed to reduce the impact of one use upon the other, including open space, woodland, landscaped areas, and other types of visual and sound barriers.

Building – A structure having a roof supported by columns or walls to include gas or liquid storage tanks and intended for the shelter or enclosure of persons, animals, or chattel.

Building Setback – The distance measured from the centerline of a permanent right-of-way or public road to the front portion of a building closest to said centerline. Such a distance shall include porches, whether enclosed or unenclosed, but does not include steps.

Buildout Analysis – A form of analysis predicting the total amount of development that could possibly occur in a given area under existing or proposed legal constraints (e.g., zoning ordinance) and environmental constraints (e.g., wetlands, floodplains, or steep slopes).

UDBs – Municipal regulations applicable to land development adopted under the authority of Chapter 117 (including Zoning and Subdivision Regulations, Flood Hazard UDBs, Source Protection Regulations, Official Maps). See 24 V.S.A. §4403(4).

Cannabis Retail Sales – A retailer or dispensary engaging in commercial sale of cannabis and related psychoactive products. Upon town-wide vote to permit sales per State statute, cannabis selling establishments are a conditional use in the Town of Fairlee and shall not be located within 500 feet of a public school.



500-foot cannabis exclusion buffer around Samuel Morey Elementary School.

Capacity Study – An inventory of available natural and manmade resources based on detailed data collection, which identifies the capacities and limits of those resources to absorb land development.

Carrying Capacity – The capability of a resource to sustain a level of use without having its qualitative features degraded in any significant way.

Certificate of Compliance – A permit, typically issued at the completion of construction that requires a DRB approval, but preceding the use or change in use of a property, documenting compliance with all of

a community's land use regulations and building codes and authorizing the owner to use the property for the purposes specified in the permit.

Character of the Neighborhood – Qualities that make a neighborhood distinct relative to factors such as architectural styles, structures, appearance, physical components, or street design.

Child Care – A home or facility where the owner or operator is licensed or registered by the State for childcare.

Class A Lot – A parcel with a potable water supply sourced by a public water system (see definition of *Public Water System*). Class A lots have a minimum area of 20,000 square feet.

Class B Lot – A parcel with a potable water supply sourced on the parcel. Class B lots have a minimum area of 40,000 square feet.

Clearing of Vegetation – Cutting of trees, branches, shrubs, and mowing (except for the maintenance of existing lawns) regulated in the Lake Area. See the Zoning Administrator for details.

Cluster Development – Land development that concentrates Land Uses on lots that sometimes have been reduced in size below the minimum size required by the zoning UDB to allow the remaining land on a site to be used for recreation, common open space, community infrastructure and services, or the preservation of environmentally sensitive areas.

Commercial Use – Use of a building or land for the manufacture, purchase, sale, or exchange of goods and commodities, services, and amenities.

Commercial Camp Sites and Campgrounds – Commercial use for the accommodation of transient guests sleeping in tents or recreational vehicles.

Commercial Nursery, Landscape Yard – Commercial use entailing the growing of plants for sale or the storage and sale of landscaping materials and equipment.

Community Sewage Disposal System – Any sewage disposal system other than a municipal sewage disposal system that disposes of sewage created by two or more domestic, commercial, industrial, or institutional sources.

Community Water System – Any water system that supplies water for domestic, commercial, industrial, or institutional uses to two or more customers or users.

Compatibility – The characteristic when multiple land uses may be located next to or near one another without causing significant adverse impacts on one another.

Construction – The undertaking of the first improvement on a tract of land, including work preparatory to construction such as clearing, the staking out or use of a right-of-way or in any way incidental to the altering of land according to a plan or intention to improve or to divide land by sale, lease, partition, or otherwise transfer an interest in the land. Activities which are principally for the preparation of plans and

specifications that may be required and necessary for making application for a permit, such as test wells and pits, percolation tests, and line-of-sight clearing for surveys are not commencement of construction.

Contamination – An impairment of water quality by chemicals, biologic organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

Cul de Sac – A road intersecting another road at one end and terminated at the other end by some form of vehicular turnaround.

Dedication – The formal acceptance by the Town of Fairlee of title to streets, easements, or land to be used for public purpose.

Deeryard – A place where deer congregate in the winter. Winter deer habitat or winter-feeding grounds.

Density – The number of dwelling units or units of non-residential use that are authorized or planned for a unit of land area.

Design Standard – A minimum or maximum standard prescribed by a UDB that governs a physical characteristic of a land development, building, or structure (such as its size or shape).

Development – The division of a parcel into two or more lots; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure; or of any mining, excavation of landfill, and any change in the use of any building or other structure, land, or extension of use of land.

Development Review Board – The Development Review Board of the Town of Fairlee, Vermont, as created under 24 V.S.A. Chapter 117, the AMP intended to interpret and uphold the land use UDBs of the Town of Fairlee.

Disapproval – The form of disapproval by a written Notice of Decision by the DRB, attached an application, and recorded as the disapproved application and plan with the Town Clerk, in accordance with the provisions of this UDB.

Drive-In Movie Theater – Commercial accommodation for the viewing of motion pictures from parked motor vehicles.

Dwelling Unit – One room or rooms connected together constituting a separate housekeeping unit with independent cooking, sanitary, and sleeping facilities and physically separated from any other rooms or dwelling units that may be in the same structure. Not included are motels, hotels, tourist homes, lodges, clubs, hospitals, or similar structures.

Dwellings, One Family – A detached residential building, including mobile and manufactured homes, designed for and occupied by one family only.

Dwellings, Two Family – A residential building designed for or occupied by two families living independently of each other in individual attached dwelling units.

Dwelling, Multi-Family – A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided. For purposes of this UDB, multi-family dwellings are broken into the categories of apartment house and apartment building.

Dwelling, Seasonal – Housing designed for occasional or seasonal use that does not meet the conditional use requirement per §5.3 of this UDB. Conversion of a seasonal dwelling into a year-round home requires a conditional use permit issued by the DRB per criteria established under §5.3. Home Occupations and are specifically not permitted in Seasonal Dwellings.

Dwelling, Single Family Semi-Detached – Dwelling units that share not more than two common walls with neighboring dwelling units, i.e., townhouses and row houses.

Dwellings Year-Round – Building used as living quarters for a family designed and used for year-round residence containing properly functioning sewer and water systems for the proposed or existing intensity of use.

Economic Development – The sustained, concerted actions of the policy makers and communities that promote the standard of living and economic health of a specific area.

FAA – Federal Aviation Administration.

Facility – Something that is built, installed, or established for a particular purpose.

FCC – Federal Communications Commission.

FEMA – Federal Emergency Management Agency.

FHBM – The Flood Hazard Boundary Map, an official map of the Town, issued by FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related to erosion areas having special hazards have been designated as zones A, M, and/or E.

FIRM – The Flood Insurance Rate Map, an official map of a community on which the Zoning Administrator has delineated both the areas of special flood hazard and the risk-premium zones applicable to the community.

Flood Hazard Area – Those lands subject to flooding from the 100-year flood, as defined in the existing or subsequently revised *Flood Insurance Study for the Town of Fairlee, Vermont*, and the Flood Insurance Rate Map or FIRM published by FEMA and available at the Town Clerk's office.

Flood Insurance Study – An examination, evaluation, and determination of flood hazards and if appropriate corresponding surface elevations.

Floodplain – Land adjoining rivers and streams identified by the Army Corps of Engineers and FHBM Flood Hazard Boundary Map as being subject to occasional flooding.

Floodproofing – Any combination of structural and nonstructural additions, changes, or adjustments to structures that eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Fragmentation – Dividing areas used by wildlife for habitat with land uses or development into areas that are too small or lack all of the needed features to serve as habitat for specific species.

Fringe Area – As defined by the floodway schematic.

Frontage – That portion of a lot that is adjacent and parallel to a street, road, or right-of-way.

Golf Course – A groomed outdoor area for playing the sport of golf and may be either a commercial or public use.

Gray Water – All domestic wastewater except toilet discharge water.

Ground Disturbance – Except as incidental to an agricultural use, the removal of native cover or grass, grubbing of roots, stump removal, or establishment of lawn.

Groundwater – Water below the land surface in a zone of saturation.

Growth Center – Land Use term defined by Vermont statute as an area of land that incorporates a mix of uses that typically or potentially include retail, office, commercial, civic, recreational, industrial, and residential uses within a densely developed, compact area that promotes social interaction. Growth Centers are in or adjacent to a designated downtown, village center, or new town center with clearly defined boundaries that have been approved by one or more municipalities in their municipal plans to accommodate a majority of growth anticipated over a 20-year period.

Halfway House, Halfway Housing – Community release institution.

Hazard Area – Land subject to landslides, soil erosion, earthquakes, water supply contamination, or other natural or man-made hazards as identified within a local mitigation plan in conformance with and approved pursuant to the provisions of 44 C.F.R. §201.6. See 24 V.S.A. §4303(8)(C).

Hazardous Material – Means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following: **1.** Any substance defined in section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. **2.** Petroleum, including crude oil or any fraction thereof. **3.** Hazardous wastes, as defined in this Article. **4.** Hazardous material does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with Federal, State, and local laws and regulations and according to manufacturer's instructions. **5.** Hazardous material does not include livestock wastes.

Hazardous Waste – Any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including, but not limited to those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means and which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms or any matter that may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition. The storage and handling of livestock wastes and by-products are specifically excluded from this definition.

Heavy Equipment Yard – Commercial use of a lot for the storage and sale of heavy equipment.

Historic Preservation – The research, protection, restoration, and rehabilitation of buildings, structures, objects, districts, and areas and sites significant in the history, architecture, archaeology, or culture of the state of Vermont, its communities, or the nation (22 VSA §701(5)).

Historical Structure – Any structure that is either: **1.** Listed individually in the National Register of Historic Places (a listing maintained by the Secretary of the Interior as meeting the requirements for individual listing on the National Register) or **2.** Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a historic district. **3.** Individually listed on a State inventory of historic places in states with historic preservation programs that have been certified either by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Home Occupation – Any occupation customarily carried on by a resident occupying a minor portion of a dwelling or accessory structure that is clearly secondary to the principal use and does not materially change the character thereof, including but not limited to the operation of a beauty parlor, insurance office, or professional office as defined and regulated in this UDB §4.5.

Hotel – A building and use providing lodging and usually meals and alcoholic beverages for the public, especially transients.

Impact – A consequence of an effect generated by a Land Use. An impact is most often considered to be significant when it is experienced off the lot or parcel of the Land Use that generated the effect.

Industrial – A principal commercial use defined by the following categories:

Light Industrial: Mechanical transformation of materials or substances that does not entail the handling of molten metals, the use of chemicals or materials that are hazardous in the quantities or concentrations that would be present at the manufacturing location, does not produce liquid or gaseous waste products requiring special treatment or control processes, or produces solid waste

requiring special handling or long-term storage at the site of the industrial use. Light industrial shall not produce dust, smoke, noise, vibration, heat, odors, or electrical or magnetic disturbances detectable outside of the manufacturing structure or equipment. The assembly of component parts into finished products is considered light manufacturing where the activity does not entail the use of substances, or the production of byproducts excluded from this definition.

Medium Industrial: Mechanical or chemical transformation of materials or substances into new products that does not entail the handling of molten metals, does not produce liquid or gaseous waste products that cannot be rendered non-hazardous by onsite treatment and control processes, or produces solid waste requiring special handling. Manufacturing activities shall not use chemicals that would be hazardous in the quantities present at the site or produce dust, vibration, heat, odors, or electrical or magnetic disturbances detectable beyond the property line. Noise levels at the property line shall not exceed 50dbL.

Heavy Industrial: Mechanical or chemical transformation of materials or substances into new products that entails the handling of molten metals, the production of liquid or gaseous waste products that cannot be rendered non-hazardous by onsite treatment and control processes, production of solid waste requiring special handling and/or long-term on-site storage, and heavy industrial uses are not a permitted or conditional use in the Town of Fairlee.

Infrastructure – Facilities and installations, such as streets and utilities, that are necessary for the use and development of land. The term's usual usage is in reference to public facilities, but may also be applied to planned improvements for subdivisions or PUDs, especially those that will be dedicated to the Town.

Land Development – The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure or any mining, excavation, or landfill and any change in the use of any building or structure or land or extension of use of land, excepting agricultural forestry, outdoor recreation, and wildlife refuge uses within the floodplain district.

Land Use – The purpose for which land or the structures thereon are being used (e.g., commercial, residential, or retail). Also, used as a description of activities found throughout a specified area.

Level of Service – The operating conditions that a driver will experience while traveling on a particular street or highway, including frequency of stops, operating speed, travel time, or traffic density.

Liquor Store – A state franchised retail shop that sells prepackaged alcoholic beverages to consumers, typically in bottles, intended to be consumed off the store's premises. A liquor store is a conditional use in the Town of Fairlee.

Lot – Land occupied or to be occupied by a building and its accessory buildings together with the required open spaces having not less than the minimum area, width, and depth required for a lot in the district in which such land is situated and having frontage on a street or other means of access as may be determined by the DRB to be adequate as a condition of the issuance of a zoning permit. A portion of land in a subdivision or plat that is separated from other portions of land by a proposed property line.

Lot Area – The total area within the property lines of the lot, excluding public streets, roads, and

rights-of-way and meeting the district requirements of this UDB. For purposes of subdivision proceedings, the total surveyed land area within the boundaries of a proposed lot, exclusive of any land area designated for a public road as measured to the boundary of such right of way or easement.

Lot depth – The closest distance to any rear lot line from the front lot line. For triangular lots with no side lot lines, the average depth of the lot as measured perpendicular to the front lot line.

Lot Frontage Minimum – That portion of a lot that is adjacent and parallel to a public road or street.

Lot Line Adjustment – A mutually agreed shift in a boundary line between two parcels.

Lowest Floor – The lowest floor if 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 §2.63.

Major Subdivision – Any residential subdivision containing four or more lots or requiring any new road in excess of 800 feet in length or any commercial, industrial, or commercial recreational project, multi-family housing project, planned residential development, planned unit development, or a series of minor subdivisions of a tract of land occurring over a period of 5 years creating four or more lots that meets the definition of a subdivision.

Manufactured 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.

Manufactured Home Park or Manufactured Home Subdivision – A parcel of land divided into two or more manufactured home lots for rent or sale.

Master Plan – An officially adopted plan that describes, analyses, and makes policies about a wide range of topics (such as community facilities, economy, housing, land use, population, and transportation) to guide the development of an entire area (that is, a municipality, region, or state). See 24 V.S.A. §4382 and §4348a.

Mean Sea Level – For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other successor datum to which base flood elevations shown on a Town's FIRM are referenced.

Medical Outpatient Clinic – A non-profit or for-profit medical facility that offers outpatient and emergent care services to the exclusion of inpatient housing.

Minor Subdivision - Minor subdivisions are characterized by lot counts below the trigger for Act 250 permitting, they lack complicated site conditions and involve relatively simple access and easement arrangements.

Mixed-Use – Development of a parcel, building, or structure in the Mixed-Use Area with a variety of

complementary and related uses, e.g., warehousing and other storage would be complementary to industrial and commercial uses. Primary retail is specifically excluded from this definition.

Mobile Home Park – Any parcel of land under single or common ownership or control that contains at least 10 and not more than 25 mobile home units or is designed, laid out, or adapted to accommodate homes. Nothing herein shall be construed to apply to premises used solely for display or storage of mobile homes.

Motel – A building containing rooms that are rented as a series of sleeping units for transients. Each sleeping unit consists of at least a bedroom and a bathroom.

Motor Vehicle Sales – Commercial use entailing the buying and selling of motor vehicles.

Municipal Services – Fairlee municipal water, street lighting, policing, snow clearance, library, transfer station, Town Clerk, and Town recreational operations.

Municipality – A town, city, an incorporated village, or an unincorporated town or gore.

Natural Area – An area of land or water that is not dominated by manmade features containing significant flora, fauna, and geological features.

Neighborhood – An area that shares a common function and/or character. It may refer specifically to an area whose residents regard it to be a separate community or a collection of residential, commercial, and institutional land uses that form a basic unit of community planning.

New Construction – For the purposes of determining insurance rates, structures for which the “start of construction” is commenced on or after the effective date of an initial land development of or after December 31, 1974, whichever is later and includes any subsequent improvements to such structures. For floodplain management purposes new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Noncompliance (Noncompliant) – Nonconformity in violation of the existing ordinances and as such actionable under violation procedures.

Nonconforming Lots or Parcels – Lots or parcels that do not conform to the present UDB covering dimensional requirements, but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present UDB, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator.

Nonconforming Use – A use of land, building, or premises that is not a use permitted by the provisions of this UDB for the district in which such land, building, or premises are situated, but which was legally existing at the effective date hereof.

Nonconforming Structure – A structure not complying with the zoning regulations for the district in which it is located where such a structure complied with all applicable laws, ordinances, and regulations prior to the enactment of this UDB.

Nonconformity – A nonconforming use, structure, lot, or parcel. The quality of a use, structure, lot, or parcel that is nonconforming to the current UDB.

Normal Waterfront Facilities – Any docks, wharves, floats, and boat houses without toilet facilities.

Open Space – Land not occupied by structures, buildings, roads, rights-of-way, recreational facilities, or parking lots.

Outdoor Rural Recreation – Activities, such as, hiking, climbing, biking, conservation, leisure, skiing, and other sports provided they are non-motorized.

Outdoor Rural Recreation Facilities – Infrastructure, including buildings, trails, outdoor courses, and structures to support outdoor recreation activities. Institutional shooting ranges are specifically excluded from this definition and are not permitted in the Town of Fairlee. Incidental residential occupancy or meals is allowed for staff and guests, but total overnight occupancy shall not exceed 20 persons. Outdoor activities may only take place in daylight hours. Total impervious cover shall not exceed 1 acre.

Overlay District (Overlay Zone) – A Zoning District with boundaries that may or may not coincide with those of regular zoning districts used to define special areas or uses. Overlay Districts may be used to impose regulations that supplement those of the underlying zoning districts.

Parcel – An area of land containing one or more lots under common ownership or control. As applies to subdivision proceedings, a parcel is the original area of land subject to subdivision into lots.

Permitted Use (Permitted by Right Use) – A residential Land Use that does not require action by an AMP before a Zoning Permit is issued or a commercial Land Use only subject to site plan review.

Person – Any individual, partnership, corporation, association, unincorporated organization, trust, or other legal or commercial entity, including a joint venture or affiliated ownership that owns or controls the tract or tracts of land to be developed. The word "person" also means any municipality or State agency.

Personal Services – A commercial use featuring services provided on site, i.e., barber, hair, or nail salon. Retail of goods may only be secondary and directly related to the service offered.

Phased Development – Required timing or other limitations on a particular development under the authority of a UDB to avoid or mitigate any undue Adverse Impact on existing or planned community facilities or services. See 24 V.S.A. §4422.

Planned Residential Development (PRD) – A type of Planned Unit Development that provides for a mixture of housing types or densities and typically involves cluster development.

Planned Unit Development (PUD) – One or more lots, tracts, or parcels of land to be developed as a single entity the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. The plan, as authorized, may deviate from UDB requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, type of dwelling, or building, use, density, intensity, lot coverage, parking, required common open space, or other standards. See 24 VSA §4303(19) and §4417.

Planning Commission – The Planning Commission of the Town of Fairlee, Vermont, as created under 24 V.S.A. Chapter 117.

Plat – A map or representation on paper or mylar of a piece of land subdivided into lots and roads, drawn to scale. A plat in this context is submitted by a subdivider or developer to determine if the proposed land development will comply with the requirements of the UDB. Plats are required to meet standards concerning format and information.

Policy – Any goal, objective, strategy, or action that is recommended in a Comprehensive Plan or a special plan as a guide for subsequent decision-making.

Premises – A lot as defined in this section, including any buildings thereon.

Primary Retail – A commercial use designed to sell goods directly to the public on a walk-in basis.

Primary Containment Facility – A tank, pit, container, pipe, or vessel of first containment of a liquid or chemical, excluding the storage and handling of livestock wastes and by-products.

Primitive Camp – Camps with no interior plumbing consisting of more than a sink with water that are used no more than 3 consecutive weeks per year and no more than a total of 60 days per year shall be exempt from septic permitting requirements per 10 V.S.A. § 1974. This exemption does not apply to seasonal camps.

Professional Offices – Offices of an architect, accountant, dentist, medical doctor, land surveyor, lawyer, real estate or insurance agent, and other similar-type uses.

Public Improvement – Any improvement that shall be owned or maintained by the Town of Fairlee.

Public Notice – The form of notice prescribed by 24 V.S.A. §4444, §4449, or §4464 as context requires, but broadly meant to refer to the required posting in public places, publication in newspaper of record, and the web listing of the time and place of a public hearing or other proceeding warning of that public hearing or proceeding the required number of days before taking place.

Public Road – A State highway as defined in 19 V.S.A. §1 or a Class 1, 2, or 3 town highway as defined in 19 V.S.A. §302(a) or a class 4 town highway if the Town has so selected. For purposes of setting front setbacks, all road frontages require front setback distances.

Public Water Supply – Any system(s) or combination of systems owned or controlled by a person that provides drinking water through pipes or other constructed conveyances to the public and that has at least

15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. Such term includes all collection, treatment, storage, and distribution facilities under the control of the water supplier and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. In addition, this includes any water supply system with 10 or more residential connections.

Recreational Vehicle – Is a vehicle used for camping or temporary living quarters. It does not include snow machines, travel bikes, or boats.

Redevelopment – The conversion, reuse, and/or reconstruction of buildings, structures, neighborhoods, and communities.

Release – Any unplanned or improper discharge, leak, or spill of a potential contaminant, including a hazardous material and/or hazardous waste, excluding the storage and handling of livestock wastes and by-products.

Residential Development – One or more homes or structures intended to be used as a residence or residences along with accompanying accessory structures, such as garages, sheds, and storage buildings.

Resort – A multi-faceted, recreational facility to which persons go for relaxation and customarily offering lodging and food.

Resort Accommodations – Commercial accessory uses and buildings associated with the housing, feeding, and entertainment of resort guests.

Restaurant – Commercial use that features sale of food ready to eat for public consumption on site or for take-away.

Road – A highway, street, or other roadway that exists for vehicular travel, exclusive of a driveways, serving not more than two single family residential uses or lots. The word "road" shall mean the entire right-of-way. See also Public Road.

Sawmill – Commercial processing of timber into lumber and other wood-related products on an industrial scale.

Scale – The size and proportion of a building, structure, or land development in comparison with nearby development.

Seasonal Dwelling – Housing designed for occasional or seasonal use, often of substandard construction, insulation, and/or wastewater disposal systems as compared to buildings designed for year-round use. Conversion of a seasonal dwelling into a year-round home requires a conditional use permit issued by the DRB. Home Occupations are specifically not permitted in Seasonal Dwellings.

Second Floor Occupancy – As required under §3.2.1 Village Area district regulations, new construction in this zone must make provision for a second floor that, if not used in conjunction with the first floor use,

must be occupied by other uses permitted or conditional in this zone. Residential and commercial uses may be mixed in these circumstances.

Secondary Containment Facility – A second tank, catchment pit, pipe, or vessel that limits and contains a hazardous material or hazardous waste leaking or leaching from a primary containment area. Monitoring and recovery are required excluding the storage and handling of livestock wastes and by-products.

Setback – Space on a lot measured perpendicular to lot lines that is not occupied by above, at, or below grade development, including buildings, structures (except fences), wells, septic tanks, leach fields, driveways, porches, patios, and decks. Distances shall be measured from the closest part of the development, except for roofed development, which shall be from the drip line.

Setback, Front – The distance measured from the center of the travelled way along the front lot line being the lot line adjacent and fronting a public or private road. In the case of corner lots with frontage on two sides, the front lot line shall be along both frontage lines. For lots accessed solely by a right-of-way, the front setback shall be to the front lot line that shall be the lot line where the access enters the lot. Such a distance shall include porches, whether enclosed or unenclosed, but does not include steps.

Setback, Rear – Setback along the rear lot line(s), which are all lot lines that are not front or side lot lines. In the case of corner lots and lots with only three sides, rear setbacks will be from all lot lines that are not front lot lines.

Setback, Side – Setback between the principal building or accessory use building and a side lot line and extending through the front and rear property lines.

Setback, Waterfront – The distance measured from the mean water level to the nearest permanent building.

Shoreland – Land between the normal mean water mark of a lake, pond, or impoundment exceeding 20 acres and a line not less than 500 feet or more than 1,000 feet from such mean high water mark. See 10 V.S.A. §1422(8) and §4424.

Short term rental -- a publicly promoted rental for stays of less than 32 days of any residential home unit or accessory building that is not regulated as a commercial use or residential business or service.

Side Setback – Setback between the principal building or accessory use building and a side lot line and extending through from the front yard to rear yard.

Sign – Either a freestanding accessory structure or a fixture on a building as regulated by these provisions per §4.16.

Site Plan – A Plat that depicts the general layout of a proposed land development.

Site Plan Review – The process by which DRB reviews the Site Plan for a proposed development to ensure that the development will conform to applicable regulations. See V.S.A. §4416.

Smart Growth – The pattern of land development that uses land efficiently, reinforces community vitality, and protects natural resources. Smart Growth strategies include efforts to maintain Vermont’s historic settlement pattern and encourage concentrated development in and around downtowns and villages while supporting Vermont’s rural working land.

Source Protection Overlay District – Mapped area designed to protect the quality of public drinking water supplies through enhanced regulations and DRB oversight.

Spill Response Plans – Detailed plans for control, re-containment, recovery, and cleanup of hazardous material and/or hazardous waste releases, such as during fires or equipment failures.

Sprawl – A scattered untimely and poorly planned development. It is an inefficient planning practice, which is usually motor-vehicle dependent and consumes land necessary for agricultural or natural resource protection. Sprawl typically manifests in the form of leapfrog development, strip malls, ribbon development, large lot single family units, and strip commercial land development so each individual establishment has direct access to road and parking areas.

Stormwater Runoff – Precipitation that does not infiltrate the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

Stormwater Treatment Practice (STP) – A stormwater treatment practice that is a specific device or technique designed to provide stormwater quality treatment and or quality control.

Start of Construction – Technically defined in §1909.1 of FEMA current National Flood Insurance Program rules and regulations.

Street – Any street, avenue, boulevard, road, alley, and other right-of-way excluding private driveways.

Streetscape – The appearance or view of a street.

Structure – An assembly of materials for occupancy or use, including but not limited to a building, mobile home, and vehicles used as structures, swimming pools, signs, and free-standing renewable energy devices. For the purpose of this UDB, the term does not include driveways, fences, stonewalls, mailboxes, flagpoles, dog houses, tents, and other minor structures and installations, but does include retaining walls.

Subdivider – Any person who shall lay out for the purpose of transfer of ownership or right to use any subdivision or part thereof. The term shall include an applicant for subdivision approval.

Subdivision – The division of a parcel of land into two or more lots, plots, or parcels. For the purposes of this UDB, see definitions of major and minor subdivisions.

Subdivision Regulation – A municipal UDB that may regulate the procedures and requirements for the submission and processing of plats and establish standards for the design and layout of streets, curbs,

gutters, streetlights, fire hydrants, shade trees, water, sewage, drainage facilities, public utilities, and other necessary public improvements. See 24 V.S.A. §4418 and §4463.

Substance Abuse Clinic – A medical facility whose primary function is the distribution of controlled substances for the outpatient treatment of addiction. A substance abuse clinic is not a principle permitted or conditional use, but is allowed as an accessory use in the Town of Fairlee.

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvements – Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not include either any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by a code enforcement official and are the minimum necessary to assure safe living conditions or any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Summer Camps – Use entailing the housing, feeding, entertainment, and education of children or adults in an outdoor setting for seasonal lengths of time.

Time-of-Travel Distance – The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer.

Tower – A structure more than 20 feet in height above the ground elevation built for the purpose of supporting, elevating, or placement of antennas for broadcast services or wireless services.

Townhouse – Single-family semi-detached dwellings arranged in rows, such that they share no more than two party walls.

Trip-end – Traffic count term referring to a vehicle arriving or leaving a location via the public roads.

Use – Activity taking place on a parcel or in a structure. The predominate activity is a “principle use.” Subordinate activities are “accessory uses.”

Variance – An exception to the UDB resulting from the physical circumstance or characteristics of the particular property in question that causes a hardship not created by the property owner (i.e., purchasing a non-conformity is a self-created hardship).

Vehicle Fuel Sales – Retail or fleet sale of motor vehicle fuels. This commercial use is conditional in any zone in which it is allowed.

Village Center – A Village Center is a traditional center of the community typically comprised of a cohesive core of residential, civic, religious, and commercial buildings arranged along a main street and intersecting streets. See 24 V.S.A. §2791(10).

Waiver – An exception to the setback requirements granted by the Zoning Administrator to improve ADA compliant access or by the DRB to relieve a hardship.

Waterfront Setback – The distance measured from the mean water level to the nearest building excluding normal waterfront facilities.

Watershed – An area of land that drains water, sediment, and dissolved material to a common outlet at some point along a stream channel.

Wetland – An area of the State that is inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. See 24 V.S.A. §4303(32).

Wildlife Corridor – An area of habitat connecting wildlife populations separated by human activity or structures, such as roads, development, or logging.

Wireless Communications Facility – A tower, pole, antenna, guy wire, or related fixtures or equipment intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmission reception and for which a license is sought or has been granted by the FCC. The construction or improvement of a road, trail, building, or structure incidental to a communications facility.

Vantage Point – A point located on a public highway or public water body in Fairlee from which a proposed wireless communication facility will be visible.

Yard Sale, also Garage Sale, Lawn Sale, Tag Sale – The sale of pre-owned household goods by the owner of those goods from a residence on an incidental basis. Yard sales may be held no more than six times a year from any single residence and may not feature the sale of goods specifically purchased for re-sale. Items for sale and display paraphernalia shall be removed upon the conclusion of each event.

Zoning – A type of land use regulation governing the location, type, and density of development within a community through the delineation of one or more zones or zoning districts, as depicted on a zoning map. Local zoning regulations must conform to the municipal plan, including the plan's land use goals and recommendations and proposed land use map.

Zoning Administrator (ZA) – Local administrator in charge of enforcing the municipal zoning regulations. The ZA is responsible for providing information to the public, reviewing plans and documentation for compliance and assisting applicants with their requests for permits, site plan reviews, conditional use permits, waivers, and variances.

Zoning Map (Official Zoning Map) – The map officially adopted as part of a zoning UDB that identifies Zoning District boundaries (Land Use Map).

Village Designation

Fairlee, Vermont



Land Use Codes

- Commercial
- Civic
- Land
- Residential
- Apartment
- VD 2014 Boundary

Other Layers

- Water Service Area
- ID #
- tax parcels

- ID Business**
- 1 Silver Maple Lodge
 - 2 Ledas Pizza
 - 3 Fairlee Marine
 - 4 Harris Monument
 - 5 Perry's Laundromat
 - 6 Amerigas
 - 7 Fairlee Marine
 - 8 Foggs Lumber
 - 9 Dollar General
 - 10 Wings
 - 11 Wells River Savings Bank
 - 12 Fairlee Diner
 - 13 Cumberland Farms
 - 14 Mrs Chapmans Gift Shop
 - 15 Chapmans Store
 - 16 Graphone Antiques
 - 17 Fairlee Town Hall
 - 18 HB - Bunny Steps
 - 19 Fletcher Computer
 - 20 Fairlee Library
 - 21 Fairlee Community Church
Fairlee RailRoad Station
 - 22 (Grannys Antiques - Flea market)
 - 23 Third Rail building
 - 24 Evans Market/Gas
 - 25 Barnyard Quilt
 - 26 Subway
 - 27 Whistle Stop Cafø
 - 28 Whippi Dip
 - 29 Lakeside
 - 30 Waters Marine
 - 31 Post Office
 - 32 Foggs Hardware & Lumber
 - 33 Bait shop
 - 34 Fairpoint
 - 35 Champlain Farms
 - 36 DD Country Supply



TRORC
Two Rivers-Ottawaquechee
REGIONAL COMMISSION

128 King Farm Rd.
Woodstock, VT 05091 802.457.3188
trorc.org

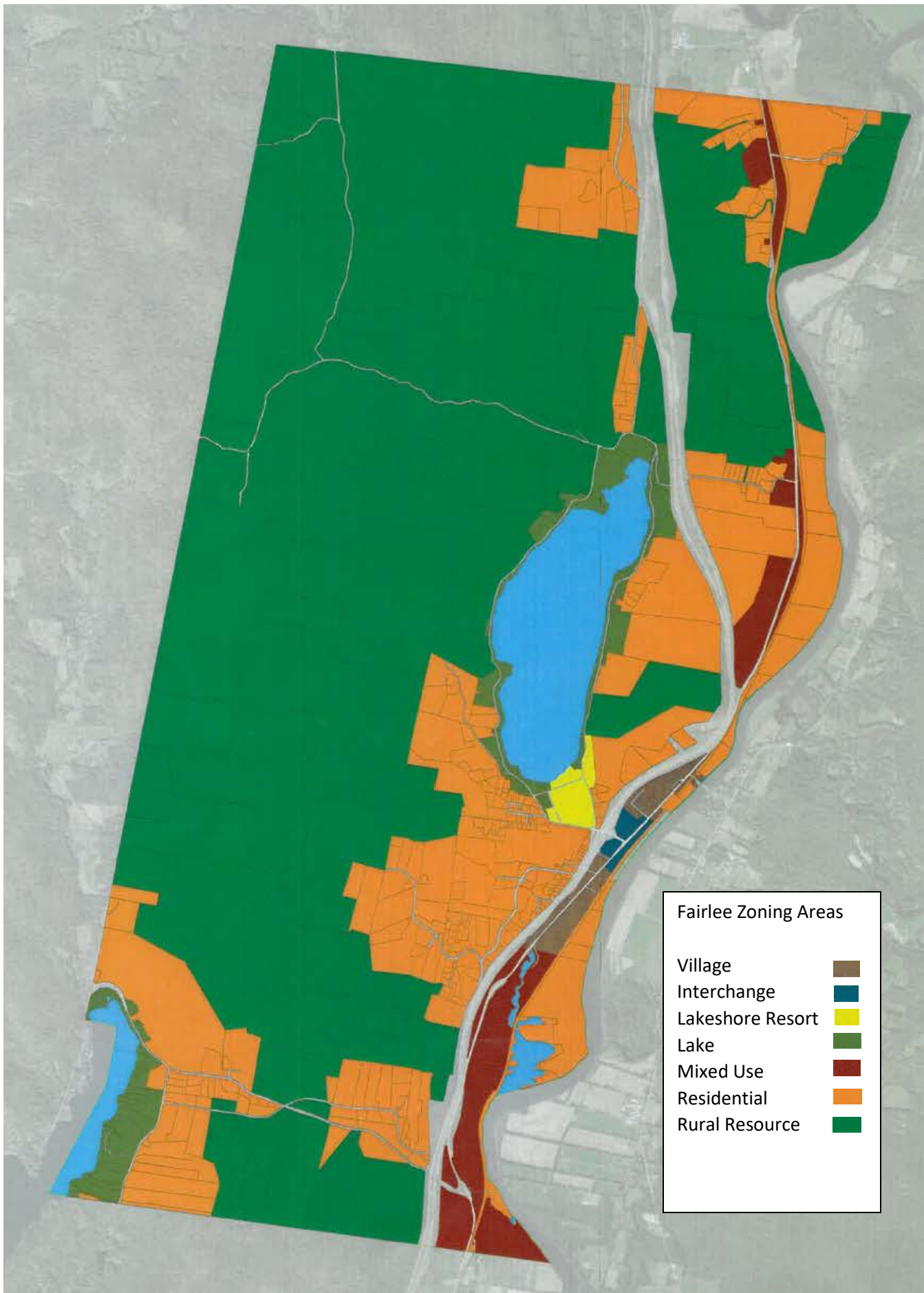




Figure 2

Fairlee Town Water Supply
WSID #5174
Wellhead Protection
Area (WHPA)
Fairlee Town Well #1
MDD = 300 gpm
Fairlee, Vermont

