

Town of Fairfax



**Zoning Bylaws
Subdivision Regulations
Appendix A - D**

Prepared by the Fairfax Planning Commission
Approved by the Fairfax Selectboard
Approved by the voters of Fairfax
September 12, 2000

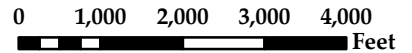
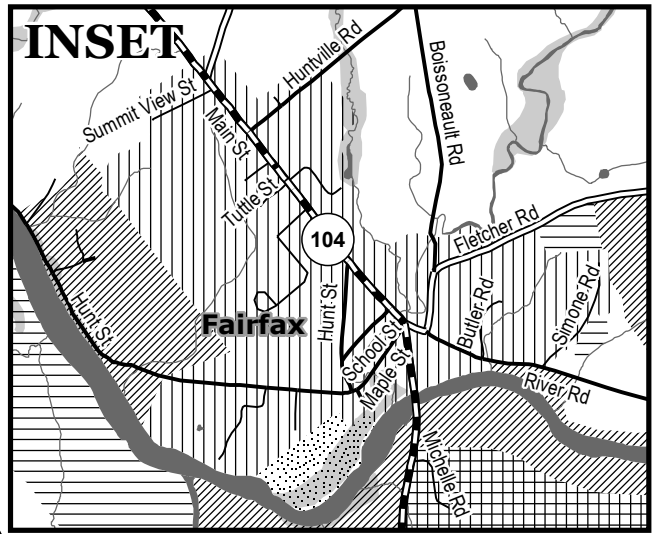
Amendments Adopted May 23, 2002

Amendments Adopted October 11, 2005

**Amendments Adopted August 6, 2007
Effective Date August 27, 2007**

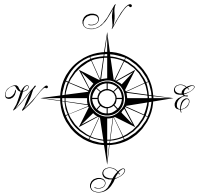
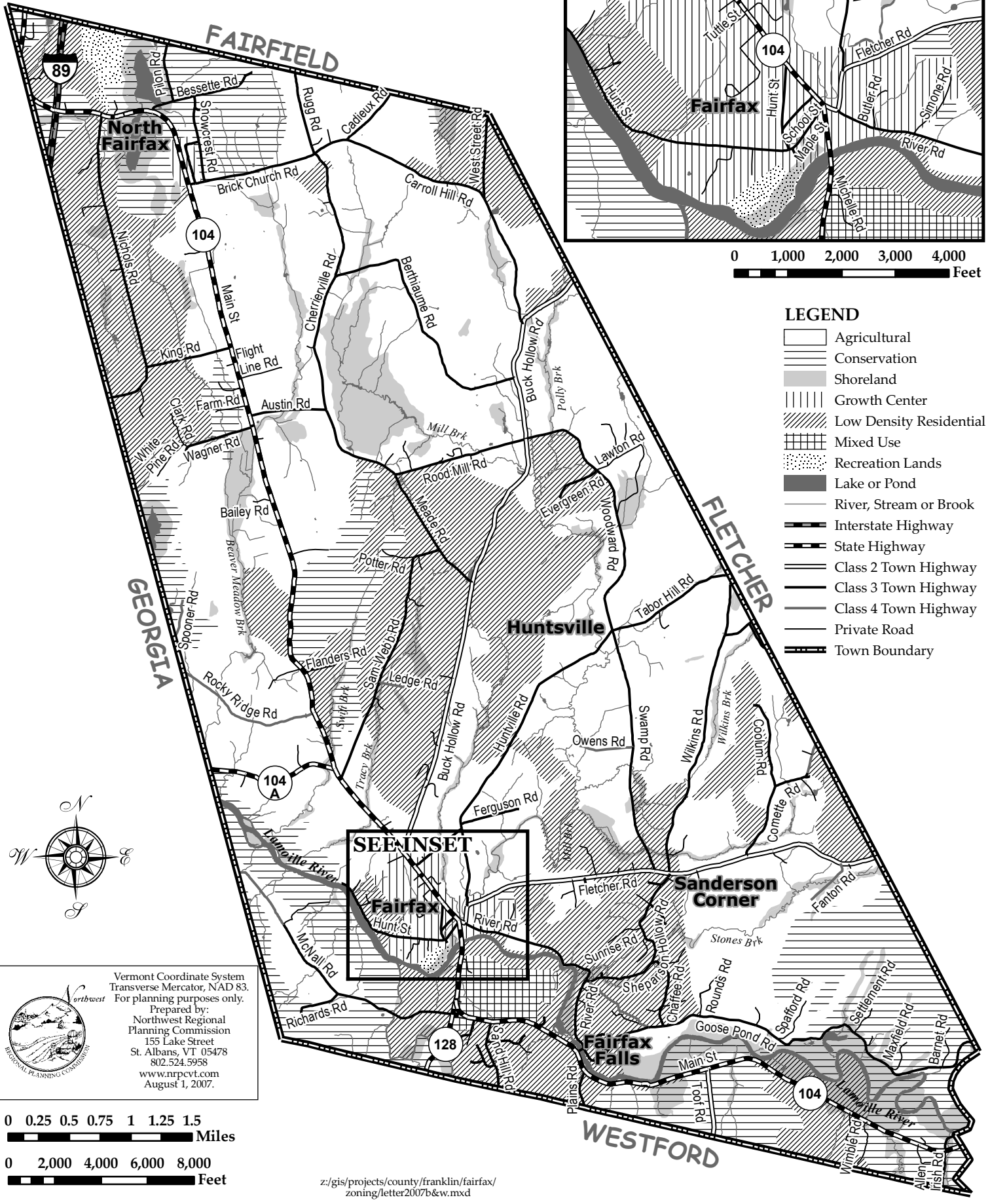
ZONING MAP

Town of Fairfax

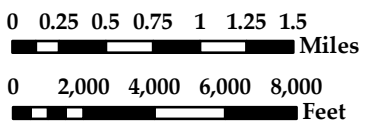


LEGEND

- Agricultural
- Conservation
- Shoreland
- Growth Center
- Low Density Residential
- Mixed Use
- Recreation Lands
- Lake or Pond
- River, Stream or Brook
- Interstate Highway
- State Highway
- Class 2 Town Highway
- Class 3 Town Highway
- Class 4 Town Highway
- Private Road
- Town Boundary



Vermont Coordinate System
 Transverse Mercator, NAD 83.
 For planning purposes only.
 Prepared by:
 Northwest Regional
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 August 1, 2007.



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

**Amendments to Bylaws and Subdivision Regulations
Adopted by the Selectboard August 6, 2007, Effective August 27, 2007**

The Town of Fairfax Zoning Bylaws and Subdivision Regulations were approved on September 12, 2000 and amended on May 23, 2002 and on October 11, 2005. Interim Subdivision Regulations Concerning the Construction of New Roads was adopted September 24, 2004 and re-adopted on September 18, 2006.

The proposed amendments conform with or further the goals contained in the 2003-2008 Fairfax Town Plan. Zoning district boundaries have not changed. Permitted and Conditional Uses within Zoning Districts have been updated. Affordable housing is further encouraged in Planned Unit Developments through the ability to accumulate density bonuses. The regulations have been updated to further encourage safe roads and driveways by clarifying standards for road and driveway width appropriate for fire and rescue vehicles. Turnarounds for roads and driveways and passing zones for long driveways have also been updated to improve access for fire and rescue vehicles.

The proposed amendments are compatible with the proposed future uses and densities of the 2003-2008 Fairfax Town Plan. The proposed amendments are not applicable to any specific proposal for planned community facilities. The proposed amendments further clarify issues that were identified during the amendment process in 2005. Three public hearings were held and input was received from the public, the Planning Commission, the Selectboard and the Development Review Board. Most major areas of change are listed below.

ZONING BYLAWS

- 01) Clarify **Zoning Administrator's responsibilities** (Section 2.1A).
- 02) Clarify **Public Notice Requirements** (Section 2.1D).
- 03) Change "**Building Permit**" to "**Zoning Permit**" (Section 2.2A).
- 04) Modify **Certificate of Occupancy** (Section 2.2B).
- 05) Change **Wastewater Permit** (Section 2.2C) to reflect that all Wastewater Permits are now issued by the State of Vermont.
- 06) Change use of **Certificate of Compliance** (Section 2.2E.).
- 07) Clarify **Permitted Uses and Conditional Uses** (Section 3.3A).
- 08) Changes added to Section 3.4 **District and Dimensional Requirements**:
 - * Change **minimum lot size in Growth Center District from 1/3 acre to 1/2 acre**
 - * Add **Accessory Apartments** as Permitted Use in all districts that allow single family dwellings.
 - * Add **Bed and Breakfast** as Conditional Use in all districts except Shoreland District and Recreation District.
 - * Add the following Conditional Uses to all districts that do not allow them presently, with exception of the Shoreland District and Recreation District: **Rooming and Boarding**

House; Public Facilities; Low Impact Public Facilities; Retail Sales; Personal Services; Professional Services; and Light Industrial (Light Industrial not added to Conservation District).

- * Add **Wireless Communication Facilities** as Conditional Use in all districts.
 - * Add **Auto Service Stations** as Conditional Use to: Low Density Residential; and Agricultural and Forest Resource Districts.
 - * Add **Conditional Use Standards** to Low Density Residential, Agricultural and Forest Resource and Conservation Districts.
 - * Change **density bonuses**.
- 09) Add Section 3.5 - **Other Uses**.
 - 10) Add and define **Home Business** which does not require a Permit (Section 4.5 and Definitions).
 - 11) Change Section 4.7 **Planned Unit Development**, to include menu of density bonuses, and changed “modification” to “deviations” in Section 4.7 B & C with appropriate wording changes.
 - 12) Rewrite Section on **Signs** (Section 4.13).
 - 13) Clarify Section on **Recreational/Camping Vehicles with Sleeping Quarters** and move from Section 4.14 to Section 6.9.
 - 14) **Access to Lots** has been changed (Section 5.1).
 - 15) Section on **Height Limits** has been changed (Section 5.4).
 - 16) Section on **Obstruction of Vision at Intersection** has been clarified (Section 5.6).
 - 17) Sections 5.7 and 5.8 of the Zoning Bylaws, **Location of Driveways and Roads**, have been changed to the center of the road and set back distances have been adjusted in Section 3.4.A-G.
 - 18) Section 5.8, **Location of Roads changed to state a road serves two or more living units or uses**.
 - 19) **Boundary Adjustments** has been changed – Development Review Board must hold a hearing (Section 6.5).
 - 20) **Single Lot Subdivision on a Working Farm** has been removed (Section 6.6).
 - 21) Section 6.6 of Zoning Bylaws has been added, allowing the Zoning Administrator to do an **Administrative Review for Two Lot Subdivisions**, with a list of conditions that require review by the Development Review Board. A warned Public Hearing will need to be held by the Development Review Board for final approval.
 - 22) **Small Residential Development** has been deleted (Section 6.7).
 - 23) **Day Care and Family Care Homes** has been modified (Section 6.7)
 - 24) **Allowed Uses**, Section 6.8 of the Zoning Bylaws, changed to **Other Uses** and moved to Section 3.5 of the Zoning Bylaws.
 - 25) **Recreational/Camping Vehicles with Sleeping Quarters** has been changed and moved from Section 4.14 to Section 6.9.

SUBDIVISION REGULATIONS:

- 01) The Authority Section of General Provisions has been modified (Section 101).
- 02) The **Purpose** Section of General Provisions has been removed (Section 102).
- 03) Modify **Applicability** Section (Section 105).
- 04) **Exemption** Section removed (Section 107).
- 05) **Fees** have been added to Section 107.
- 06) Modify **Submission Requirements** (Article II, Section 201).
- 07) Reference to **garbage pick up** has been added to Sections 302, 402 and 408.
- 08) Format of **Minor and Major Subdivision** sections has been changed (Article III and Article IV).
- 09) **Contingent Approval** has been removed (Article III, Section 304 and Article IV, Section 411)
- 10) Article III, Section 305 of Subdivision Regulations, **Final Approval**, has been removed.
- 11) Article VI **Application Submission Requirement** removed and incorporated into other sections.
- 12) **Planning Standards** re-numbered to Article VI.
- 13) **Lot Design** has been added to Article VI, Section 604F.

- 14) **Lot Size and Density** has been changed (Article V1, Section 604G).

APPENDIX A - REQUIRED IMPROVEMENTS AND DESIGN STANDARDS:

- 01) Section 1 changed to state **a road serves two or more units or lots, and a driveway serves one unit or lot.**
- 02) Section 1K, **Rights of Way**, has been modified
- 03) Section 1L, **Design**, has been modified.
- 04) Section 1N, **Street Names and Signs**, has been expanded.
- 05) Section 1O, **Other Regulations**, has been added regarding **Access Management.**
- 06) Section 2.0B, changed to read **“Curbs and sidewalks will be required in the Growth Center and Mixed Use Districts...”**
- 07) **Erosion and Sediment Control** has been modified (Section 4.0C).
- 08) **Shared Water Supply** has been added (Section 7.0B).
- 09) **Community Water Systems** has been modified (Section 7.0C).
- 10) **Sewage Disposal, Community Systems** (Section 8.0A) has been modified.
- 11) **Sewage Disposal, Individual Systems** (Section 8.0B) has been modified.
- 12) **Sewage Disposal, Standards** (Section 8.0C) has been removed.
- 13) **Waste Management**, (Section 10) has been added.

APPENDIX B – DEFINITIONS:

- 01) Appendix B, **Title of Definitions** - Wording changed.
- 02) Definition deleted: **Apartment House.**
- 03) Definitions added: **Bed and Breakfast, Boundary Adjustment, Casual Sale, Conditional Use, Home Business, Permitted Use, Seasonal Non-Profit Concession, and Vehicular Access Management Plan.**
- 04) Appendix B, Definitions modified: **Accessory Use/Structure, Community Sewage Disposal System, Density, Driveway, Forestry, Half-way Houses, Home Industry, Lodging Establishment, Major Subdivision, Minimum Lot Area, Multi-Family Dwelling, Non-conforming structure, Non-conforming Use, Planned Unit Development, Retail Sales, Road, Rooming and Boarding Houses, Street Line, Subdivision and Yard.**

APPENDIX C – WIRELESS COMMUNICATION FACILITIES:

- 01) Minor wording changes.

APPENDIX D – ROADS AND DRIVEWAYS

- 01) **Interim Subdivision Regulations Concerning the Construction of New Roads** incorporated into Appendix D with the Title changed to **Subdivision Regulations for Construction or Improvement of Roads and Driveways.**
- 02) **Purpose**, wording changed (Section 101).
- 03) **Applicability** (Section 102) incorporated into Section 101, and removed from Section 102.
- 04) Section 102, changed **definitions of Driveway and Road.**
- 04) **Road Standards - Width**, modified (Section 104.1.A & B).
- 05) **Road Standards - Driveways, Entrances and Approaches** modified (Section 104.11).
- 06) **Waivers**, (Section 104.16) deleted.
- 07) Sections 107 and 108, **Enactment Authority and Effective Date**, deleted.

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

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

**Amendments to Bylaws and Subdivision Regulations
Adopted by the Selectboard – October 11, 2005**

The current Town of Fairfax Zoning Bylaws and Subdivision Regulations were approved on September 12, 2000 and amended on May 23, 2002. Interim Subdivision Regulations Concerning the Construction of New Roads, were adopted September 24, 2004.

The proposed amendments in this document are primarily those required to meet the changes in VSA Title 24, Chapter 117 adopted by the Vermont legislature in 2004, which must be implemented by September 1, 2005. In addition, other changes have been incorporated, including some that are not required by the new law, and some that are recommended in order to comprehensively implement it. The Fairfax Planning Commission held the initial public hearing on the proposed amendments on June 28, 2005. As a result of that hearing, minor changes were made and the proposal was submitted to the Fairfax Select Board, which held its first public hearing on August 23, 2005. Again some changes were made and this report has been updated to reflect those changes.

The proposed amendments conform with or further the goals contained in the 2003-2008 Fairfax Town Plan. Zoning district boundaries have not changed. Permitted and conditional uses within zoning districts have been updated to reflect the new state statutory requirements. None of the proposed amendments directly address the availability of safe and affordable housing.

The proposed amendments are compatible with the proposed future uses and densities of the 2003-2008 Fairfax Town Plan. The proposed amendments are not applicable to any specific proposal for planned community facilities.

Specific Proposals:

Zoning Bylaws:

Article 2.0 Administration and Enforcement

Section 2.1A- Change wording for nomination and appointment of the Administrative Officer

Section 2.1B- Changes in responsibilities of the Development Review Board, and description of process for combined reviews.

Section 2.1D- Added section describing public notice and warning requirements.

Section 2.1E- Added section defining decision process.

Section 2.3D- Added section defining permit applicant's responsibility to post a public notice within view of the public right-of-way.

- Section 2.3E- Define Administrative Officer's responsibility to refer applications to the Development Review Board.
- Section 2.4- Expanded description of the appeal process requirements.
- Section 2.6- Added section referring to requirements for variances.

Article 3.0 Zoning Districts and District Regulations

- Eliminated all references to PRD's
- Incorporated PUD's into some districts to replace PRD's
- Clarified limits of regulation on public facilities
- Deleted "Transmission and Distribution Lines" as a Conditional Use in all Zoning Districts

Article 4.0 Permits and Approvals

- Section 4.1C- Changed decision deadline from 60 days to 45 days
- Section 4.3- Modified this section to replace non-complying with non-conforming and used language consistent with new statutes.
- Section 4.4- Expanded and revised regulations regarding existing small lots.
- Section 4.7- Revised section on PRD's and PUD's by eliminating all references to PRD's
- Section 4.9- Added modular housing and prefabricated housing.
- Section 4.10- Revised requirements for accessory apartments.
- Section 4.12- Changed decision deadline from 60 to 45 days and removed reference To PRD's

Article 5.0 General Regulations

- Section 5.1- Revised requirements for Right of Way Approval by the Development Review Board

Article 6.0 Special Provisions

- Section 6.5- Replaced the word may with the word shall.
- Section 6.6- Replaced the word may with the word shall. Changed filing deadline for Plats.
- Section 6.8- Revised Requirements for Day Care Facilities.

Subdivision Regulations

Article III Minor Subdivision Application

- Section 302 - - Cross referenced public notice requirements from Article 2, Section 2.1D

Article IV Major Subdivision Application

Section 402- Cross referenced public notice requirements from Article 2, Section 2.1D.
Section 407- Cross referenced public notice requirements from Article 2, Section 2.1D.

Article V General Application Requirements

Section 505- Changed the filing deadlines for final plat.
Section 507- Removed exemptions from compliance with subsequent bylaw amendments.

Appendix B Definitions

Accessory Apartment - new definition.
Interested Persons- corrected definition to reflect new state statute.
Major Subdivision –Removed reference to Planned Residential Development
Modular Housing - new definition.
Non-Conforming Use- expanded definition.
Non-Complying Structure- changed to non-conforming structure and expanded.
Non-Conforming Lot - new definition.
Planned Residential Development- eliminated definition.
Places of Worship- new definition.
Public Facilities- changed definition.
Group or Community Care Home- changed to “Residential Care Home or Group Home” and modified.

Appendix C Wireless Communication Facilities

Section 3.0D- Changed decision deadline from 60 to 45 days.

*All statutory references throughout the Fairfax Zoning Bylaws, Subdivision Regulations and Appendices have been updated to reflect the new subchapter and section numbers within the revised Title 24 VSA, Chapter 117.

Amendments to Bylaws and Subdivision Regulations
Adopted by the Selectboard – May 23, 2002

The changes in this document are minor adjustments to the bylaws to correct errors that were overlooked during the original adoption process, and to make the board responsibilities and language agree with the creation of the Development Review Board. The responsibilities of the Development Review Board and Planning Commission are listed in Article 2.0, Section 2.1

Throughout the entire document references to the Planning Commission, and Zoning Board of Adjustment were changed to agree with the creation of the Development Review Board, and the words Development Review Board added where applicable.

Wording was added to the following sections to encourage a continuous network of roads and streets in the Growth Center and Mixed Use District: Sections 3.4A, 3.4B of the bylaws, and Sections 201 #5; 601 #7, and 602 #4 of the Subdivision Regulations.

Article 2.0 Administration and Enforcement

Section 2.1 - B – C. – Changes in the responsibilities of the Boards
 Deleted Part D

Article 3.0 Zoning Districts and District Regulations

Section 3.1 – Deleted C, 2 – duplicated in Section 3.2E

Section 3.4 – Moved, and labeled as Section 3.2

Section 3.4A-G(3.3) – District Uses and Dimensional Requirements

- Home Industry – remains the same on the use charts, but now requires Site Plan Review
- PRDs and PUDs are major subdivision, but do not require Site Plan Review – Site Plan can be done when an individual lot is developed
- Public Recreation has been added to the use charts with Site Plan Review required
- Front setback of a structure is from the edge of the traveled portion of the road **NOT** the Center Line of the Right-of-way.

Article 4.0 Permits and Approvals

Section 4.3 – New Section C - ZA authority to approve changes to non-complying residential structures

Section 4.12 – Removed #7 – duplicate

Article 5.0 – General Regulations

Renumbered Sections 5.5 through 5.8

Section 5.8 – Location of road is determined by the traveled edge of the road, **NOT** the location of the right-of-way. The definition of a road is determined by the number of living units or uses it serves, **NOT** the number of lots.

SUBDIVISION REGULATIONS

Section 101 Added the restriction of five years to DRB's authority to review a previously filed plat.

APPENDIX A – Improvement & Design Standards

Section 1.0 Definition of road determined by number of living units or uses it serves; **NOT** the number of lots.

APPENDIX B – Definitions

Accessory Use – Reference to Section 6.4 included

Principal Structure/Use – Reference to Section 6.4 included

Recreation – Public – Added definition

APPENDIX C – Wireless Communication Facilities

Reformatted

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Town of Fairfax



Zoning Bylaws

Adopted September 12, 2000

Amendments Adopted May 23, 2002

Amendments Adopted October 11, 2005

Amendments Adopted August 6, 2007
Effective Date August 27, 2007

ARTICLE 1.0 GENERAL PROVISIONS

1.1 - Enactment

These Town of Fairfax Zoning Bylaws are established pursuant to the Vermont Planning & Development Act, 24 VSA, Chapter 117 (herein after referred to as “the Act”). These Bylaws shall take effect, and may be amended according to the procedures and requirements specified in the Act, Section 4441 and 4442. On the date these zoning regulations become effective, they shall amend in their entirety the zoning regulations and interim zoning regulations of Fairfax then in effect.

1.2 - Severability

The invalidity of any article or section of these Bylaws shall not invalidate any other article or section thereof.

1.3 - General Purpose, Interpretation and Applicability

- A. The purpose of the Fairfax zoning regulations is to implement the Fairfax Town Plan and to further the purposes of the Act, Section 4302; specifically, to promote the public health, safety, comfort, convenience, economy and general welfare of the community. No provision of the Fairfax zoning regulations shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in the Act, Section 4382c.
- B. The Fairfax Zoning Regulations consist of the Zoning Bylaws Articles 1- 6, the Subdivision Regulations Articles I through VI, Appendix A, Appendix B, Appendix C, Appendix D, the Official Zoning Map, Town of Fairfax Flood Hazard Area Regulation Ordinance, and other documents incorporated by reference.
- C. Except where specifically provided to the contrary, it is not intended by these Bylaws to remove, void or in any way alter any previously issued permits.
- D. Hereafter no development, as defined in 24 V.S.A. Chapter 117, Section 4303 (10), including any division of a parcel of land into two or more parcels; new construction; substantial improvement; relocation or enlargement of any mining, excavation or landfill; or any substantial change in the use of any building or other structure, or land or extension of use of land shall commence except in compliance with all regulations in these Bylaws. Any use not authorized by these Bylaws shall be deemed to be prohibited (except as noted in Article 3, Section 3.5).
- E. In their interpretation and application, the provisions of these Bylaws shall be held to be minimum requirements which shall take precedence over any concurrent and less restrictive applicable statutes, ordinances, rules, regulations or permit requirements.
- F. Except where defined in the provisions of these Bylaws or the Act, all words herein shall carry their customary meanings. Where doubt exists as to the precise meaning of any word(s), the Development Review Board shall rule on the interpretation. The Development Review Board shall publish (and update from time to time) definitions and rulings of interpretation, to ensure consistent and uniform application of these Bylaws.

ARTICLE 2.0 ADMINISTRATION AND ENFORCEMENT

2.1 - Zoning Administrator, Development Review Board, and Planning Commission

These Bylaws shall be administered by a Zoning Administrator and a Development Review Board, whose appointment, removal, powers, and duties shall be as prescribed in the Act.

- A. The Zoning Administrator shall be nominated by the Planning Commission and appointed by the Board of Selectmen for a term of three years. The Zoning Administrator is charged with the responsibility of administering these Regulations and shall not permit any land development that is not in conformance with these Regulations. The Zoning Administrator shall be responsible for enforcement of any Zoning Permit and shall also be responsible for the enforcement of the conditions of project approval issued by the Fairfax Development Review Board. Neither the Zoning Administrator nor the Town of Fairfax shall be responsible for enforcement of Permits issued by any other entity.
- B. The Development Review Board shall be appointed by the Selectboard. The Development Review Board shall work as cooperatively with applicants as possible and shall have the following functions:
1. Consider decisions of the Zoning Administrator on appeal.
 2. Consider and either grant or deny requests for variances.
 3. Consider and either grant or deny applications for conditional use.
 4. Consider and either grant or deny applications regarding nonconformities, in accordance with Section 4.3 herein.
 5. Consider and either grant or deny approval for site plans.
 6. Consider and either grant or deny requests for Planned Unit Developments.
 7. Consider and either grant or deny applications under the Subdivision regulations.
 8. Consider and either grant or deny right-of-ways or easements for land development without frontage.
 9. Consider and either grant or deny wireless telecommunications facilities.
 10. Consider and either grant or deny applications for boundary adjustments.

In accordance with 24 V.S.A. Section 4462, in cases where a proposed project will require more than one type of development review, the Development Review Board may warn and hold a joint hearing or single hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. Notice for a combined review hearing shall be made in accordance with 24 V.S.A. Section 4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing. As applicable, the combined review process shall be conducted in the following order:

1. Site Plan
2. Access by right-of-way
3. Requests for Variances
4. Subdivision Approval (preliminary and final) or Planned Unit Development approval
5. Conditional Use Review

All hearing and decision requirements, and all deadlines applicable to each review process, shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated for consistency where appropriate.

- C. The Planning Commission shall be appointed by the Selectboard. The Planning Commission shall have the following functions:
1. Prepare amendments to these regulations and other regulations as permitted by 24 VSA Chapter 117.
 2. Prepare and update the Town Plan every five years and prepare amendments to the Plan as necessary.

D. Public Hearing/Public Notice Requirements:

In accordance with Section 4463(a) and 4464(a) of the Vermont Municipal & Regional Planning & Development Act, a warned public hearing shall be required for any application requiring review and approval of the Development Review Board (see Article 2, Section.2.1(B)).

1. The applicant shall bear the cost of notification to all abutters (adjoining land owners) as determined from the current municipal grand list and will also bear the cost of posting notice within view from the public right-of-way.
2. All public notices will be created by the Town of Fairfax Zoning Office. Town personnel will be responsible for all public notice postings, except that the applicant shall be responsible for posting the notice within view of the public right of way nearest to the property for which the application is being made.

E. Decisions:

Any action or decision of the Development Review Board shall be taken by the concurrence of a majority of the members of the Development Review Board. In accordance with the Act (4464(b)), the Development Review Board shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective the 46th day.

2.2 - Permits

- A. Zoning Permit: No structure may be erected, substantially improved, changed in use or moved, nor shall any Use be initiated or changed, without a Zoning Permit for such action having been duly issued by the Zoning Administrator, except as noted in Article 3, Section 3.5. Zoning Permit fees shall be in accordance with the current Fairfax Fee Schedule. A change of a seasonal dwelling to a year round dwelling requires a Zoning Permit. Zoning permits shall be effective for a period of twenty-four (24) months, unless specified otherwise in these regulations. A single, one-year extension may be granted if active construction (see definition of Construction in Appendix B) has continued for, but has not been completed within, the initial twenty four (24) month period. No further Zoning Permits for that parcel shall be issued to any builder or developer who has not satisfied requirements on current Zoning Permits.
- B. Certificate of Occupancy: It shall be unlawful to use, occupy or permit occupancy of any new commercial or residential structure, including accessory apartments until the Zoning Administrator issues a Certificate of Occupancy that states that the actual use of the dwelling conforms to the zoning permit and the provision of these Bylaws and other applicable Federal, State and Town regulations. If the Zoning Administrator fails to either grant or deny a Certificate of Occupancy for use within seven working days after receiving an application, the Certificate of Occupancy shall be issued.
- C. Wastewater Permit:
- (1) A State of Vermont Wastewater Permit shall be required for any new use or structure that generates sewage, and any expanded use or structure that generates additional sewage.
 - (2) The Zoning Administrator shall not issue a Zoning Permit where a Wastewater Permit is required until the State Wastewater Permit has been received. In addition the system, when installed but prior to being covered with earth, shall be inspected by a qualified person (see Appendix B) to ensure construction in accordance with the State Wastewater Permit. A written inspection report by a qualified person is required before a Certificate of Occupancy can be issued.
 - (3) Any replacement, alteration, or expansion of an existing sewage disposal system shall require a State of Vermont Wastewater Permit.
- D. Access Permit: An Access Permit issued by the Selectboard is required for all new access to Class I, II, III or IV roads. Landowners are responsible for maintaining a driveway cut to the standards specified by the Selectboard within the body of the permit.

- E. Certificate of Compliance: A Certificate of Compliance may be issued by the Zoning Administrator when an applicant requests certification of compliance with Town of Fairfax Zoning Bylaws.
- F. Fees: The Board of Selectmen shall establish fees for all permits.

2.3 - Applications and Issuance of Permits

- A. Within thirty (30) days of submission of a completed application, fee, plot plan, and all other required information and approvals, the Zoning Administrator shall either issue or deny the permit. The issuance of permits is subject to the requirements of Sections 4449 and 4424 (d) of the Act. If the permit is denied, the Zoning Administrator shall so notify the applicant in writing, stating the reasons for denial. If the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day
- B. Permits are issued for a specific site, and are not transferable to any alternate site or parcel within an approved subdivision plan. A developer may apply to have an approved permit applied against another lot within this approved subdivision without the applicant seeking another permit. Permits remain valid for any subsequent owner of that site or parcel.
- C. More than one pending application per parcel will not be allowed if the proposed developments are mutually exclusive. Applicants must withdraw any previous applications before submitting a new one if the approval and construction of the pending application would preclude completion of the new application.
- D. Within three days following the issuance of a Zoning Permit, the Zoning Administrator shall deliver a copy to the Listers and post a copy of the permit in the Town Clerk’s office until the expiration of the appeal period or in the event that a notice of appeal has been filed, until final adjudication of that appeal. The Applicant must also post a permit notice, in the form prescribed by the Town of Fairfax, within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.
- E. The Zoning Administrator must refer to the Development Review Board all applications requiring Development Review Board review and approval.

2.4 - Appeals

All appeals shall be resolved according to 24 VSA Chapter 117, subchapter 11 of the Act, including notice of appeal requirements in Section 4466 and 4471. The Zoning Administrator shall supply a list of interested persons (including the applicant, if not the appellant), to the appellant within five (5) days of notice of appeal.

2.5 - Violations

Violations of these Bylaws shall be regulated as prescribed in Sections 4451 and 4452 of the Act.

2.6 - Variances

Requests for variances of these Bylaws shall be regulated as prescribed in section 4469 of the Act.

ARTICLE 3.0

ZONING DISTRICTS AND DISTRICT REGULATIONS

3.1 - Establishment of Zoning Districts and Official Zoning Map

- A. The Town of Fairfax is hereby divided into the following zoning districts: Growth Center, Mixed Use District, Low Density Residential District, Agricultural and Forest Resource District, Conservation District, Shoreland District, and Recreation District.
- B. Pursuant to the Act, Section 4414(1)(E), provision is hereby made for the future establishment of design review districts, in accordance with the prescribed procedure for preparation of a report, hearings, etc. in said section.
- C. The Official Zoning Map shall consist of the Town of Fairfax Zoning Map and the latest Federal Insurance Administration Flood Insurance Rate Map (FIRM). The locations of the zoning districts are on the Official Zoning Map and the latest FIRM which are hereby adopted by reference and declared to be part of these Bylaws. Regardless of the existence of copies which may be made or published from time to time, the Official Zoning Map and latest FIRM located in the Town Clerk's Office shall be the final authority as to the zoning status of all land and water areas in the Town of Fairfax.
 - 1. The Town of Fairfax Zoning Map shall be identified by the signatures of the Selectboard, attested by the Town Clerk. No changes of any nature shall be made on the official Zoning Map except in conformance with the formal amendment procedures and requirements set forth in the Act, Sections 4441 and 4442.
 - 2. All floodplain areas indicated by the latest FIRM, regardless of whether they are indicated on the Town of Fairfax Zoning Map, shall be considered within the Shoreland District.

3.2 - Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be, construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.
- B. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
- C. Boundaries indicated as following shorelines shall be construed as the normal mean water level.
- D. Boundaries indicated as parallel to, or as extensions of features in (A), (B), and (C) above shall be so construed.
- E. When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the Development Review Board shall interpret the district boundaries.

3.3 - District Provisions

A. For uses not listed in the District Tables (Section 3.4 of these Bylaws), see Section 3.5. The prescribed uses and structures for each district are classified as "permitted" or "conditional", and shall be regulated as follows:

Permitted uses require a Zoning Permit which may be directly approved by the Zoning Administrator, except where approval from other bodies is required.

Conditional uses require review (according to Section 4.1) by the Development Review Board after referral from the Zoning Administrator. The Zoning Administrator may only issue a Zoning Permit for the conditional use after approval by the Development Review Board.

B. All uses and structures must meet the district dimensional requirements and all other applicable provisions of these Bylaws, except as may be authorized by a variance or under the planned unit development provisions herein.

3.4 - District and Dimensional Requirements

A. Growth Center District

Purpose: The Growth Center District provides for increased densities of development suitable for the traditional village environment. Development in the district shall promote the continuation of higher density residential and commercial uses while providing an environment conducive to pedestrian safety and convenience, and a continuous network of roads and streets.

Permitted and Conditional Uses: The intent of the Growth Center District is to permit a variety of uses within the village area of Fairfax.

PERMITTED AND CONDITIONAL USES FOR GROWTH CENTER DISTRICT	
Permitted Uses (see section 3.3.A.)	<u>Conditional Uses (see section 3.3.A.)</u>
<ul style="list-style-type: none"> • Single Family dwelling • Accessory Apartment • Two Family dwelling • Multi-Family Dwelling* • Accessory Structures • Agribusiness* • Agriculture • Antique Shops* • Rooming and Boarding House* • Daycare *(1) • Forestry • Home Industry* • Home Occupation • Low Impact Public Facilities* • Mixed Use Buildings* • Office Buildings* • Personal Services* • PUD • Professional Services* • Public Facilities *(2) • Recreation – Indoor* • Recreation - Public* • Social Services* • Theaters* 	<ul style="list-style-type: none"> • Auto Service Stations* • Clubs* • Gas/Service Stations* • Half-way house* • Lodging Establishments* • Bed and Breakfast* • Mobile Home Parks* • Recreation - Outdoor* • Retail Sales* • Shopping Centers* • Storage Facilities * • Wind Turbines* • Wireless Communication Facilities * <p>(1) See section .6.7</p> <p>(2) See section 4413(a) and (b)of the Act for limits of regulation.</p> <p>*Use may require Site Plan review, section 4.12</p>

Area Dimensions: This section contains area dimensions, which are intended to promote a higher density of development than in rural areas of the town.

GROWTH CENTER DISTRICT AREA DIMENSIONS					
Minimum Lot Size (acre)	Minimum Frontage (ft)	Minimum Width (ft)	Minimum Yard Setback (ft)		
			Center of Right of Way	Side	Rear
<p><u>Village</u> ½ acre per unit (maximum overall density = 2 units per acre) see notes 1&3</p>	100	100	40	10	(see note 2) 25 new 5 existing
<p>North Fairfax 2 Acres per unit (maximum overall density = 1 unit per 2 acres) see notes 1&3</p>	200		60	25	25

- Notes:**
1. The Development Review Board may grant up to a 20% density bonus for projects designed to meet the needs of elderly or handicapped individuals or families whose income is less than the median income of Franklin County.
 2. Lots existing as of the date of passage of these regulations may use a 5 foot rear setback. New lots must utilize a 25-foot rear setback and should be planned accordingly.
 3. Two-family dwellings count as one unit for the purpose of density calculations.

Conditional Use Standards: during conditional use review, the following standards will be used in addition to sections 4.1 and 4.2.

1. Retail uses will provide for the needs of Fairfax residents, residents of nearby communities, tourists, and special customers; but will not be regional facilities.
2. The use as designated and planned will be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Bylaws.
3. The siting, layout, and appearance of the building or buildings will respect the existing street pattern of Fairfax, respect the variety of the traditional village, and be integrated into the current and future growth center layout and appearance.
4. The siting of buildings on parcels should minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, construction of through roads, and other design options.

B. Mixed Use District

Purpose: The Mixed Use District provides for increased uses and densities of development which may not be suitable for the traditional village environment. Development in the district shall promote the continuation of higher density residential and commercial uses while providing an environment conducive to pedestrian safety and convenience and a continuous network of roads and streets.

Permitted and Conditional Uses: The intent of the Mixed Use District is to permit a variety of uses within the area adjacent to the village Growth Center.

PERMITTED AND CONDITIONAL USES FOR MIXED USE DISTRICT	
Permitted Uses (see section 3.3.A.)	<u>Conditional Uses (see section 3.3.A.)</u>
<ul style="list-style-type: none"> • Single Family dwelling • Accessory Apartment • Two Family dwelling • Multi-Family Dwelling* • Accessory Structures • Agribusiness* • Agriculture • Antique Shops* • Rooming and Boarding House* • Daycare *(1) • Forestry • Home Industry* • Home Occupation • Low Impact Public Facilities* • Mixed Use Buildings* • Office Buildings* • Personal Services* • PUD • Professional Services* • Recreation – Indoor* • Recreation – Public* • Storage Facilities * 	<ul style="list-style-type: none"> • Auto Service Stations* • Clubs* • Gas/Service Stations* • Half-way House* • Light Industrial* (includes warehousing) • Lodging Establishments* • Bed and Breakfast* • Major Motor Vehicle Repair* • Mobile Home Parks* • Public Facilities*(2) • Recreation – Outdoor* • Retail Sales* • Shopping Centers* • Social Services* • Theaters* • Wind Turbines* • Wireless Communication Facilities *

(1) See section 6.7

(2) See section 4413 (a) and (b) of the Act for limits of regulation.

*Use may require Site Plan review, see section 4.12

Area Dimensions: This section contains area dimensions, which are intended to promote a higher density of development than in rural areas of the town.

MIXED USE DISTRICT AREA DIMENSIONS					
Minimum Lot Size (acre)	Minimum Frontage (ft)	Minimum Width (ft)	Minimum Yard Setback (ft)		
			Center of Right of Way	Side	Rear
1/2 acre per unit (maximum overall density = 2 units per acre) see notes 1 & 3	100	100	40	10	(see note 2) 25 new 5 existing

- Notes:**
- 1. The Development Review Board may grant up to a 20% density bonus for projects designed to meet the needs of elderly or handicapped individuals or families whose income is less than the median income of Franklin County.*
 - 2. Lots existing as of the date of passage of these regulations may use a 5 foot rear setback and should be planned accordingly.*
 - 3. Two-family dwellings count as one unit for the purpose of density calculations.*

Conditional Use Standards: during conditional use review, the following standards will be used in addition to sections 4.1 and 4.2.

- Retail uses will provide for the needs of Fairfax residents, residents of nearby communities, tourists, and special customers; but will not be regional facilities.
- The use as designated and planned will be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Bylaws.
- The siting, layout, and appearance of the building or buildings will respect the existing street pattern of Fairfax, respect the variety of the traditional village, and be integrated into the current and future layout and appearance of the district.
- The siting of buildings on parcels should minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, construction of through roads, and other design options.

C. Low Density Residential District

Purpose: This district is intended to accommodate rural residential and compatible uses. Cluster housing is encouraged to minimize the appearance of strip development along roads and to maximize the amount of open space.

PERMITTED AND CONDITIONAL USES FOR LOW DENSITY RESIDENTIAL DISTRICT	
Permitted Uses (see section 3.3.A.)	<u>Conditional Uses (see section 3.3.A.)</u>
<ul style="list-style-type: none"> • Single Family dwelling • Accessory Apartment • Two Family dwelling • Multi-Family Dwelling* • Accessory Structures • Agriculture • Antique Shops* • Daycare *(1) • Forestry • Home Occupation • PUD • Recreation – Public* • Seasonal Dwelling 	<ul style="list-style-type: none"> • Agribusiness* • Auto Service Stations* • Rooming and Boarding House* • Bed and Breakfast* • Public Facilities* (2) • Low Impact Public Facilities* • Earth Resource Extraction* • Home Industry* • Retail Sales* • Personal Services* • Professional Services* • Kennels, Veterinary Office, Animal Boarding* • Light Industrial* • Major Motor Vehicle Repair* • Recreation – Outdoor* • Storage Facilities * • Wind Turbines* • Wireless Communication Facilities *

(1) See section 6.7

(2) See section 4413 (a) and (b) of the Act for limits of regulation.

*Use may require Site Plan review, see section 4.12

LOW DENSITY RESIDENTIAL AREA DIMENSIONS				
Minimum Lot Size	Minimum Frontage (ft)	Minimum Yard Setback (ft)		
		Center of Right of Way	Side	Rear
2 Acres per unit (maximum overall density = 1 unit per 2 acres) see notes 1&2	200	60	25	25

Notes: 1. The Development Review Board may grant up to a 20% density bonus for projects designed to meet the needs of elderly or handicapped individuals or families whose income is less than the median income of Franklin County.

2. Note: two-family dwellings require 4 acres; two acres for each dwelling unit

Conditional Use Standards: during conditional use review, the following standards will be used in addition to sections 4.1 and 4.2.

1. Retail uses will provide for the needs of Fairfax residents, residents of nearby communities, tourists, and special customers; but will not be regional facilities.
2. The use as designated and planned will be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Bylaws.
3. The siting, layout, and appearance of the building or buildings will respect the existing street pattern of Fairfax, respect the variety of the traditional village, and be integrated into the current and future layout and appearance of the district.
4. The siting of buildings on parcels should minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, construction of through roads, and other design options.

D. Agricultural and Forest Resource District

Purpose: This district is intended to promote forestry and agriculture and accommodate rural residential and compatible uses. Development in these areas should minimize the appearance of strip development along roads, and should maximize the amount of connected resource lands in order to allow for continued use for future agriculture or forestry. For these reasons, cluster housing is encouraged.

PERMITTED AND CONDITIONAL USES FOR AGRICULTURAL AND FOREST RESOURCE DISTRICT	
Permitted Uses (see section 3.3.A.)	<u>Conditional Uses (see section 3.3.A.)</u>
<ul style="list-style-type: none"> • Single Family dwelling • Accessory Apartment • Two Family dwelling • Accessory Structures • Agribusiness* • Agriculture • Antique Shops* • Daycare ^{*(1)} • Forestry • Home Occupation • PUD • Recreation – Public* • Seasonal Dwelling 	<ul style="list-style-type: none"> • Rooming and Boarding House* • Bed and Breakfast* • Public Facilities* ⁽²⁾ • Auto Service Stations* • Earth Resource Extraction* • Home Industry* • Retail Sales* • Personal Services* • Professional Services* • Kennels, Veterinary Office, Animal Boarding* • Low Impact Public Facilities* • Light Industrial* • Major Motor Vehicle Repair* • Recreation – Indoor* • Recreation -Outdoor* • Storage Facilities * • Wind Turbines* • Wireless Communication Facilities *

⁽¹⁾ See section 6.7

⁽²⁾ See section 4413 (a) and (b) of the Act for limits of regulation.

*Use may require Site Plan review, see section 4.12

AGRICULTURAL AND FOREST RESOURCE AREA DIMENSIONS				
Minimum Lot Size	Minimum Frontage (ft)	Minimum Yard Setback (ft)		
		Center of Right of Way	Side	Rear
2 Acres per unit (maximum overall density = 1 unit per 2 acres) see notes 1&2	200	60	25	25

Note: 1. The Development Review Board may grant up to a 20% density bonus for projects designed to meet the needs of elderly or handicapped individuals or families whose income is less than the median income of Franklin County.

2. two-family dwellings require 4 acres; two acres for each dwelling unit

Conditional Use Standards: during conditional use review, the following standards will be used in addition to sections 4.1 and 4.2.

1. Retail uses will provide for the needs of Fairfax residents, residents of nearby communities, tourists, and special customers; but will not be regional facilities.
2. The use as designated and planned will be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Bylaws.
3. The siting, layout, and appearance of the building or buildings will respect the existing street pattern of Fairfax, respect the variety of the traditional village, and be integrated into the current and future layout and appearance of the district.
4. The siting of buildings on parcels should minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, construction of through roads, and other design options.

E. Conservation District

Purpose: This district is intended to promote conservation of significant natural areas and resources within the Town while permitting limited development that respects the natural environment. For residential uses, cluster housing is encouraged.

PERMITTED AND CONDITIONAL USES FOR CONSERVATION DISTRICT	
Permitted Uses (see section 3.3.A.)	<u>Conditional Uses (see section 3.3.A.)</u>
<ul style="list-style-type: none"> • Single Family dwelling • Accessory Apartment • Two Family dwelling • Accessory Structures • Agribusiness* • Agriculture • Antique Shops* • Daycare *(1) • Forestry • Home Occupation • PUD • Recreation – Public* • Seasonal Dwelling 	<ul style="list-style-type: none"> • Earth Resource Extraction* • Home Industry* • Rooming and Boarding House* • Bed and Breakfast* • Public Facilities* (2) • Low Impact Public Facilities* • Retail Sales* • Personal Services* • Professional Services* • Storage Facilities * • Wind Turbines* • Wireless Communication Facilities *

(1) See section 6.7

(2) See section 4413 (a) and (b) of the Act for limits of regulation.

*Use may require Site Plan review, see section 4.12

CONSERVATION DISTRICT AREA DIMENSIONS				
Minimum Lot Size	Minimum Frontage (ft)	Minimum Yard Setback Dimensions in ft		
		Center of Right of Way	Side	Rear
2 Acres per unit (maximum overall density = 1 unit per 2 acres) see note	200	60	25	25

Note: two-family dwellings require 4 acres; two acres for each dwelling unit

Conditional Use Standards: during conditional use review, the following standards will be used in addition to sections 4.1 and 4.2.

1. Retail uses will provide for the needs of Fairfax residents, residents of nearby communities, tourists, and special customers; but will not be regional facilities.
2. The use as designated and planned will be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Bylaws.
3. The siting, layout, and appearance of the building or buildings will respect the existing street pattern of Fairfax, respect the variety of the traditional village, and be integrated into the current and future layout and appearance of the district.
4. The siting of buildings on parcels should minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, construction of through roads, and other design options.

F. Shoreland District

Purpose: This district is intended to protect and preserve water resources within the Town and protect general health and safety by limiting development within the Town’s floodplain areas. Water represents a significant resource for the Town. Lakes, ponds, rivers, and streams provide numerous opportunities for fishing, swimming, boating, and other recreational uses. While providing for recreation, water-bodies also are sources and recharge areas for public water supply. Development within the shoreland areas has the potential to negatively affect water quality and create dangerous situations during natural disasters such as flooding, and therefore is limited.

PERMITTED AND CONDITIONAL USES FOR SHORELAND DISTRICT	
Permitted Uses (see section 3.3.A.)	Conditional Uses (see section 3.3.A.)
<ul style="list-style-type: none"> • Agriculture • Forestry • Recreation – Public* • Seasonal Dwelling 	<ul style="list-style-type: none"> • Recreation – Outdoor* • Wireless Communication Facilities * • Accessory Structures *

*Use may require Site Plan review, see section 4.12.

SHORELAND DISTRICT AREA DIMENSIONS				
Minimum Lot Size	Minimum Frontage (ft)	Minimum Yard Setback (ft)		
		Center of Right of Way	Side	Rear
2 Acres per unit (maximum overall density = 1 unit per 2 acres)	200	60	25	25

Floodplain Regulations

The Shoreland District, for the purpose of these Bylaws, shall include the 100-year flood plains as shown on the latest Fairfax Flood Insurance Rate Map. Because of this, the Shoreland District in some cases overlaps other districts established in these Bylaws. Where the provisions of the underlying district differ with the Shoreland District provisions, the more restrictive shall govern.

The mandatory provisions of State and Federal law for continued eligibility in the National Flood Insurance Program are hereby adopted by reference and shall be applied in the granting of any permit in the Shoreland District: Title 24 V.S.A, Section 4424 and 44 C.F.R., 60.3 and 60.6.

G. Recreation District

Purpose: This district is intended to promote recreation opportunities within the Town. Land within this district is Town owned and is intended to be used to provide recreational facilities and expand recreational opportunities to town residents and visitors.

PERMITTED AND CONDITIONAL USES FOR RECREATION LANDS DISTRICT	
Permitted Uses (see section 3.3.A.)	Conditional Uses (see section 3.3.A.)
<ul style="list-style-type: none"> • Agriculture • Forestry • Recreation – Public* 	<ul style="list-style-type: none"> • Accessory Structures * • Recreation - Outdoor* • Wireless Communication Facilities *

*Use may require Site Plan review, see section 4.12.

Area and Dimensions

Minimum Lot Size	Minimum Frontage (ft)	Minimum Yard Setback (ft)		
		Center of Right of Way	Side	Rear
No lot size requirement	25	60	25	25

3.5 - Other Uses

Uses not listed, in Article 3 of these Bylaws, as Permitted or Conditional may:

- A. Be allowed without a Permit, or
- B. Be granted Conditional Use Approval and a Permit, or
- C. Be prohibited.

The Zoning Administrator shall decide if a proposed use does not require a Zoning Permit, unless he/she determines that the Development Review Board should be consulted prior to the decision being made. The following are examples of uses not normally requiring a Zoning Permit:

01. Improvements or structures involving less than 100 square feet of new floor space or footprint area.
02. Inflatable above ground pools which must be taken down each winter.
03. Pools smaller than 100 square feet.
04. Finishing space in an existing structure.
05. Home maintenance and repair.
06. Fences.
07. Home Businesses (See Article 4, Section 4.5)
08. Roadside Agricultural Stands (See Article 4, Section 4.6)
09. Exempt Signs (See Article 4, Section 4.13)
10. Landscaping.
11. Private recreation on one's own property.
12. Daycare with six (6) or fewer children.
13. Casual Sales (See definition in Appendix B).
14. Seasonal non-profit concession (See definition in Appendix B).
15. Agricultural structures (See Article 6, Section 6.8).

Uses not listed as Permitted or Conditional in any district may be considered by the Development Review Board as a Conditional Use, if the proposed use is of the same general character as those Permitted or Conditional in the district in which the use is proposed. This section shall not be construed to allow a use to be considered in a district, when it is clear that the use is Permitted or Conditional in a different district.

ARTICLE 4.0 PERMITS AND APPROVALS

4.1 - Conditional Uses

- A. The Zoning Administrator shall not issue a permit for any use or structure that requires conditional use approval until the Development Review Board grants such approval.
- B. A public hearing after public notice shall be held by the Development Review Board to determine whether the proposed use conforms to the general and specific standards for conditional uses in these regulations.
- C. The Development Review Board shall act to approve or deny any such requested conditional uses within forty-five (45) days after the date of the final public hearing held under this section; failure to do so within such period shall be deemed approval. The Development Review Board shall prepare findings of fact upon each decision made under this section setting forth the reasons for approval, approval with conditions, or denial addressing each of the standards of these regulations. The Development Review Board may attach reasonable conditions and safeguards as necessary to implement the purpose of these regulations.
- D. In approving an application for conditional use or structure, the Development Review Board shall determine that the proposed use or structure conforms with the general standards set forth in the Act, Section 4414 (3), which require that:
 1. The proposed use shall not adversely affect the capacity of existing or planned community facilities.
 2. The character of the area, or district will not be adversely affected.
 3. Nuisance or hazard will not be created to the detriment of the health, safety, or welfare of the occupants of the proposed use or the citizens of the Town.
 4. The proposed use or building and the relationship between the buildings and the land will be in general harmony with the purposes of the district and the character of the surrounding neighborhood and will not unduly detract from abutting residences or other property.
 5. Utilization of renewable energy resources shall not be adversely affected.
 6. The appropriate use or development of adjacent property will not be prevented.
 7. The traffic generated, or patterns of access and egress will not cause congestion, hazard, or detriment to the established character of the district or neighborhood.
 8. The proposed use is consistent with these Bylaws, the Town Plan, and Subdivision Regulations then in effect.
 9. The Performance Standards in Section 4.2 and the applicable Design Requirements in Appendix A will be complied with.
- E. The Development Review Board may place conditions on a permit in order to insure that the standards of these regulations will be met, including, but not limited to, the following conditions:
 1. The Development Review Board may limit the scale or dimensions of the proposal.
 2. The Development Review Board may increase setback distances for non-residential uses which are contiguous to residential uses, recreation uses, or natural areas.
 3. The Development Review Board may limit the hours of operation.
 4. The Development Review Board may limit outdoor storage of materials, goods, and equipment.
 5. The Development Review Board may require that storage of goods, parts, supplies, vehicles or machinery being worked on or finished or partially finished will be inside a building or behind screening approved under site plan approval.
 6. The Development Review Board may attach conditions with regard to size and location of parking areas, landscaping, and signs.
 7. The Development Review Board may require roadway improvements on-site or off-site, if necessary, to accommodate the increased traffic associated with the development. Improvements may also include traffic calming, sidewalks, crosswalks and other similar improvements.

8. The Development Review Board may require other improvements necessary to accommodate the proposal.

4.2 - Performance Standards

The following performance standards must be met by all uses in all districts. The use shall not:

- (1) Emit any intensity of odor which is considered offensive AND uncharacteristic of the area.
- (2) Emit any level of noise which is considered offensive.
- (3) Emit any smoke in excess of that shown on Ringlemenn Chart #2.
- (4) Emit any dust, dirt or noxious gases which endanger the health, comfort, safety, or welfare of the public or of neighbors, or which causes any damage to property, business or vegetation.
- (5) Have lighting or signs which create glare and which could impair the vision of a driver of any motor vehicle.
- (6) Present an unreasonable risk of fire or explosion or threat to public safety.
- (7) Cause sewage, septage, or other harmful wastes to be discharged into any watercourse or into any sewage disposal system beyond its proper capacity. All local, state and federal health standards shall be complied with.

4.3 - Pre-existing Non-conforming Lots, Uses and Structures

- A. This section shall apply to any lots, structures and uses existing on the effective date of these Bylaws which do not conform to the requirements set forth in these Bylaws, and to any lots, structures and uses that in the future do not conform by reason of any subsequent amendment to these Bylaws.
- B. Any non-conforming use of a structure or of land may be continued indefinitely except that a non-conforming use shall not be reestablished after being discontinued for a period of one year, or after being changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
- C. Any expansion, extension, or modification of a non-conforming residential structure which does not increase the degree of non-conformity may be approved by the Zoning Administrator.
- D. No provision of these Bylaws shall prevent the normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformance.
- E. The Development Review Board may permit, as a conditional use:
 - (1) The alteration or expansion of a non-conforming use not to exceed 25% of its size (as of the effective-date of these Bylaws).
 - (2) The alteration or expansion of a non-conforming structure providing such action does not increase the degree or aspect of non-conformance.
 - (3) Any alteration or expansion of a non-conforming use or structure for the sole purpose of compliance with environmental, safety, health or energy codes, laws or regulations.
- F. In addition to the general conditional use review criteria in the Act, Section 4414(3), the Development Review Board shall find that the alteration or expansion will not alter the essential character of the neighborhood, nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

4.4 - Existing Small Lot; Exemption from Minimum Lot Size Requirements

Any lot of 1/8 acre or more with a minimum width or dimension of forty (40) feet in existence before January 15, 1980, may be developed provided it meets the requirements of Title 24, Section 4412(2). In the Growth Center and Mixed Use Districts, pre-existing small lots with a size of 1/8 acre or more and a minimum width or dimension of forty (40) feet are considered separate lots for the purposes of these Bylaws and may be developed regardless of ownership provided other applicable requirements of these Bylaws are met. In all other districts

preexisting small lots which are in common ownership with any adjacent parcel shall be merged, except in accordance with Title 24, Section 4412 (2)(B).

4.5 – Home Business, Home Occupations, and Home Industry

Home Businesses, Home Occupations, and Home Industries are encouraged in the Town of Fairfax. A Home Business, as defined below, is a business that has no impact on the residential character of a property, and exhibits no observable indications that a business exists. A Home Occupation, as defined below, is a business that has very little, if any, impact on the residential character of a property. Home Occupations are the minimum that must be allowed under state law. For applicants not meeting the standards of a Home Occupation, a Home Industry, as defined below, allows more intensive uses in a dwelling, provided the standards and conditions can be met. Because of the potential for Home Industries to have a greater impact, they require conditional use review by the Development Review Board in the Low Density Residential, Agricultural and Forest Resource and Conservation Districts, and site plan approval in all districts.

A. Home Business

A Home Business, as defined herein, is not considered to be a Home Occupation nor a Home Industry, shall not require a permit in any district, and shall be considered to be part of a residential use. Home Business is a use of an accessory building or minor portion of a dwelling for a business which exhibits no apparent indications that a business exists. Home Businesses must meet all of the following standards:

1. There are not employees or helpers other than members of the household.
2. The Home Business is not visible from outside the home.
3. The Home Business does not generate significant additional traffic.
4. The Home Business has no impact on the character of the neighborhood.
5. The Home Business has no signs.
6. The Home Business has no external storage of materials or equipment.
7. The Home Business produces no objectionable noise, smoke, vibration, dust or odors discernable on any adjoining property.

B. Home Occupation

A Home Occupation requires a Zoning Permit. No provision of these regulations shall infringe upon the right of any resident to use a minor part of the residence or use an accessory structure for an occupation which is customary in residential areas and which does not change the character of the residential area, providing all of the following standards are met:

1. The Home Occupation shall be carried on by members of the family living on the premises plus no more than one non-family full-time equivalent employee
2. There shall be no exterior displays, except that one unlit sign not exceeding four square feet is allowed.
3. No traffic shall be generated in a volume that alters the essential character of the neighborhood or substantially impairs the use of adjacent property.
4. Excessive noise, smoke, vibration, dust, glare, odors, electrical interference, or heat that is detectable at the boundaries of the property shall not be generated.
5. New parking constructed for the Home Occupation shall be provided off-street and shall be located in side or rear yards. Existing residential parking areas in the front and rear yards may be utilized.
6. Exterior storage of materials used in the home occupation shall be minimal, not visible from the street, road, or adjacent properties, and shall not be allowed in setback areas.
7. There shall be no potential risk to public health from the Home Occupation such as toxic emissions, on-site disposal of hazardous wastes, or overburdening of existing septic systems.
8. The Home Occupation shall occupy a minor portion of the dwelling or an accessory structure.

9. There shall not be more than an estimated average of 10 vehicles per day associated with the activities of the Home Occupation.

C. Home Industry

A home occupation not meeting all of the above standards may qualify as a Home Industry, which requires conditional use review in the Low Density Residential, Agricultural and Forest Resource and Conservation Districts, and site plan approval in all districts. The Development Review Board shall review and approve or deny any application for a Home Industry and may impose conditions as it deems necessary to insure that the standards in Section 4.1 and the following standards are met:

1. The Home Industry shall be carried on by members of the family living on the premises plus no more than three non-family full-time equivalent employees.
2. No signs shall be permitted other than as indicated in Section 4.13 of these Bylaws.
3. No traffic shall be generated in a volume that alters the essential character of the neighborhood, or substantially impairs the use of adjacent property.
4. Excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the property shall not be generated.
5. Parking shall be provided off-street, outside of setback areas.
6. No exterior storage of materials shall be allowed in the setback areas. Exterior storage areas shall be screened by landscaping or other appropriate materials.
7. There shall be no potential risk to public health from the Home Industry, such as toxic emissions, on-site disposal of hazardous wastes, or overburdening of existing septic systems.

D. Home Occupation and Home Industry Approval

Any approval for a Home Occupation or Home Industry by the Zoning Administrator or Development Review Board is granted to the applicant for the length of time that the applicant occupies the dwelling. Approval shall terminate upon relocation by the applicant and shall neither remain with subsequent occupants of the dwelling nor transfer to a new location with the original applicant. Applicants should be aware that if a business grows to the extent that it no longer meets the definition of Home Occupation or Home Industry, additional permits might be necessary. The Town of Fairfax wishes all business owners to be successful, and therefore encourages applicants to plan ahead and be aware of all applicable regulations as the business expands.

4.6 - Roadside Agricultural Stands

Temporary roadside stands for the sale of agricultural products raised on the property may be erected without the need for a permit, provided they meet the following criteria:

- A. No stand located within a road right of way shall be in place between November 1 and April 3.
- B. Off-street parking space shall be provided for at least two motor vehicles.

4.7 - Planned Unit Development

In accordance with Section 4417 of the Act, Planned Unit Developments (PUD) are permitted in order to encourage clustering and other innovation in design and more efficient uses of land and energy resources, to facilitate the adequate and economic provision of streets and utilities, and to preserve the agricultural, forested, natural and scenic qualities of the Town. The Zoning Administrator shall evaluate all proposals for PUDs to determine if the project qualifies to be considered as a PUD as defined in Appendix B. Planned Unit Developments shall be reviewed as Subdivisions under the applicable provisions of the Subdivision Regulation and all other applicable provisions of these Bylaws.

- A. To qualify as a Planned Unit Development, a project shall:
1. Be a prescribed use for the district in which it is to be located.
 2. Contain at least 4 contiguous acres (in all Districts except the Growth Center and Mixed Use).
 3. Not have a lot size less than ½ acre except in the Growth Center and Mixed Use areas,
 4. Conform to the definitions herein and to all applicable provisions of these Bylaws and to the requirements of Section 4417 of the Act.
- B. Planned Unit Developments are subject to the following provisions:
1. Proposals shall be submitted to the Development Review Board and shall include a site plan prepared by a professional Engineer licensed in the State of Vermont, showing the location and general designs of all structures, open spaces, landscaping, driveways, streets, parking areas, easements and all other physical features, together with a statement setting forth the nature of all proposed deviations from these Bylaws as requested by the applicant for this project.
 2. The project shall be consistent with the Town Plan, and the predominant uses of the site shall not differ substantially from the uses allowed in the district in which the project is located.
 3. A 10% density bonus shall be granted to Planned Unit Development projects. The Development Review Board may grant an additional two percent (2%) density bonus for each of the criteria listed below which is met by the proposed project:
 - a. The project protects the historic character of the town by maintaining characteristic building style and placement.
 - b. The project sets aside more than 10% of the acreage for open space, never to be developed.
 - c. The project sets aside more than 25% of the acreage for open space, never to be developed.
 - d. The project sets aside more than 50% of the acreage for open space, never to be developed.
 - e. The project incorporates re-use of existing historic structures.
 - f. The project protects the scenic vistas of the surrounding area.
 - g. The project fosters an environment conducive to pedestrian safety and convenience through the use of sidewalks, walking trails or park-like areas.
 - h. The project extends the environment conducive to pedestrian safety and convenience beyond the project boundaries by connections to neighboring sidewalks, trails or business areas.
 - i. The project protects and/or maintains agricultural soils or maintains agricultural land in productive use.
 - j. The project preserves forested areas in productive use.
 - k. The project provides land for public use.
 - l. The project uses energy efficient technologies or energy efficient siting of buildings.
 - m. The project makes significant contributions to a conservation program.
 - n. The project makes a significant contribution to the expansion of community facilities.

Planned Unit Development projects which meet the needs of elderly or handicapped individuals, or families whose income is less than the median income of Franklin County, may also be eligible for additional density bonuses, as specified in Article 3.4 of these Bylaws.

4. Mixed uses shall be so arranged as to be compatible, and to minimize visual and noise impact for the residents of the development and adjacent properties. The minimum setback requirements for the district in which the project is located shall apply to the perimeter of the project under review.

5. The Development Review Board may require that a reasonable percentage of the land be utilized for open space, recreation areas or necessary municipal purposes. The amount of land so designated shall be determined by the Development Review Board based on the merits, purpose, and condition of the individual proposal. Further, the Development Review Board may establish such conditions upon the ownership, use, and maintenance of said lands as it deems necessary to assure preservation of said lands for their intended purposes.
6. The project shall be an efficient and unified treatment of the development possibilities of the site, and appropriate provisions shall be made for the following:
 - a. Roads, culverts and ditching in accordance with the most recent versions of the “Fairfax Town Road and Bridge Standards” and Appendix D “Subdivision Regulations for Construction or Improvement of Roads and Driveways”, as applicable.
 - b. Water supply, sewage and solid waste disposal, drainage, traffic flow and parking, and the layout of the facilities so that public services can be economically and effectively provided.
 - c. Preservation of streams and stream banks, steep slopes, wet areas, soils unsuitable for development, forested areas, and unique natural and cultural features.
- C. Upon approval of the Planned Unit Development by the Development Review Board, deviations from these Bylaws as requested by the applicant for this project, shall be noted in a report accompanying the project approval. All other provisions of these Bylaws not specifically so noted shall remain in force and be applicable to the project.
- D. As provided in the Act, Section 4417, the Planning Commission may prescribe from time to time, supplementary rules and regulations for any Planned Unit Development. The Planning Commission shall hold public hearings prior to the establishment of any such rules and regulations.
- E. The Development Review Board may treat an application for a Planned Unit Development involving multiple adjacent parcels as a single project under these Bylaws and Subdivision Regulations.

4.8 - Auto Service Stations/Body Shops

In all districts where they are allowed, auto service stations and auto body shops shall comply with the following:

- A. A new auto service station shall not be located within three hundred (300) feet of any lot occupied by a school, hospital, library, or religious institution.
- B. All automotive parts and dismantled vehicles are to be stored within a building, and no major repair work is to be performed outside a building.
- C. A suitable landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as a driveway.

4.9 - Mobile Homes and Mobile Home Parks

Pursuant to the Act, Section 4412(1)(B), a mobile home (modular housing or prefabricated housing), shall be considered a single-family dwelling and shall meet the same zoning requirements applicable to single-family dwellings, except when unoccupied and displayed in a mobile home sales establishment or allowed as a temporary structure. In addition, mobile homes may be permitted in a mobile home park subject to the requirements of the subdivision regulations and State law. New Mobile Home Parks shall be considered as either a Planned Unit Development (PUD) or as a Subdivision.

4.10 – Accessory Apartments

One accessory apartment, that is located within or appurtenant to a single-family dwelling unit, may be permitted provided the requirements of this section are met. Each dwelling unit must meet the dimensional regulations and other requirements of these regulations. In all districts the accessory apartment need not meet the minimum lot size for a unit and may be added to a single family dwelling. Accessory units must also satisfy the following requirements:

1. Floor space shall not exceed 30% of the floor space of the existing living area of the single family residence or 400 square feet which ever is greater.
2. The owner must occupy either the primary residence or the accessory apartment.
3. The property must have sufficient wastewater capacity.
4. The residence including the accessory apartment must meet the applicable district setbacks.

4.11 – Removal of Topsoil, Rock and Gravel

- A. Commercial removal of topsoil, rock, sand, gravel, or similar material may be permitted by the Development Review Board as a conditional use in the Low Density Residential, Conservation and the Agricultural and Forest Resource Districts provided it finds that the plan for removal as submitted by the applicant, shall not cause any undue hazard to health, property, or property values. The project shall meet the general and specific conditional use standards of Section 4.1 of these regulations and the following considerations for these uses.
- B. A performance bond or letter of credit may be required to insure reclamation of the land upon completion of the excavation of materials and topsoil. Reclamation as required by the Development Review Board includes but is not limited to reseeding and reforestation.
- C. This section shall not be construed as permitting mining or quarrying operations. This section shall not apply to the removal of natural resources from a farm operation, nursery, or cemetery to the extent that such removal is necessary to the operation of the same. This section shall not apply to the removal of natural resources for the purposes of constructing a residence or accessory structure on the same lot. In granting permission, the Development Review Board must receive from a Professional Engineer, licensed in the State of Vermont, documentation relating to the following factors:
 1. Depth of excavation, and proximity to roads or adjacent properties.
 2. Existing grade and proposed grade created by removal or addition of material.
 3. Detrimental effect upon public health or safety.
 4. Detrimental effect upon the use of adjacent property or town roads due to noise, dust, or vibration.
 5. Detrimental effect of creating traffic hazards or excessive congestion or physical damage to public highways and expected routes of truck traffic.
 6. Hours of operation, numbers of trucks, and season of use.
 7. Temporary and permanent erosion control and site rehabilitation plans including grading, seeding, mulching, planting, fencing, drainage, and other measures.
 8. Detrimental effect upon water resources, wildlife habitat, and agricultural land.
 9. Expected duration of the use.

4.12 – Site Plan Approval

- A. Applicability: In any district, uses other than forestry, agriculture, home occupation, accessory uses, Planned Unit Developments and single and two family dwellings on single lots shall require site plan review by the Development Review Board before the Zoning Administrator issues a zoning permit. Subdivisions do not require site plan review. Site Plan review will not be required for change of use applications which do not propose or require an alteration to an existing, permitted site design.

- B. Application Procedures: The applicant for site plan approval shall submit a site plan application and two copies of the site plan, which shall be prepared in a clear and legible manner and include the following information:
1. Name and address of the owner of record and adjoining land ownership. Name and address of person or firm preparing the map. Site location map, scale of map, north arrow, and date.
 2. Features of the existing site including contours, vegetation and natural features, structures, access points, easements, and property and zoning boundaries, existing structures and access points to adjacent properties.
 3. Proposed improvements, including structures, parking areas, access points, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, screening and site grading. Building information, including elevations and floor plans may also be required.
 4. Detailed specifications of the planting and landscaping materials to be used.
 5. Construction sequence and timing schedule for completion of each phase for buildings, parking spaces, landscaped areas and other site improvements.
 6. Estimate of daily and peak hour traffic generation.
 7. Any other information or data that the Development Review Board may reasonably require.
- C. Decisions: The Development Review Board shall act to approve, approve with conditions, or deny a site plan within forty-five days of the date of the final public hearing. The Development Review Board shall send its decision along with findings of fact, to the applicant. If the Development Review Board fails to render a decision within the forty-five day period, site plan approval shall be deemed granted.
- D. Standards: In reviewing site plans the Development Review Board may impose appropriate conditions and safeguards with respect to the adequacy of pedestrian and vehicular access and circulation, parking, landscaping, screening, utilization of renewable energy resources, municipal services, and other factors. In the Development Review Board's review, the provisions of Appendix A, Required Improvements and Design Standards noted below in [brackets] shall be taken into consideration to ensure:
1. Maximum safety of vehicular and pedestrian circulation between the site and the street network; particular attention shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency. [Sections 1 and 2]
 2. Adequacy of circulation, parking, and loading facilities: Particular consideration shall be given to the effect of noise, glare or odors on adjoining properties and state and town highways. Adequacy of provisions for erosion control, runoff, refuse removal, service areas, and snow removal shall be considered. [Sections 3, 5 and 6]
 3. Adequacy of landscaping and screening: Particular consideration shall be given to preservation of existing vegetation and important features of the site, including trees and tree lines, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site. [Section 4]
 4. Compatibility: The Development Review Board shall impose necessary conditions to ensure that the proposed use does not negatively impact the character of the area, and that it does not adversely impact the capacity of existing or planned community facilities.

4.13 – Signs

Allowed signs fall into two categories: Permitted Signs (signs which are allowed but require a Zoning Permit) and Exempt Signs (signs which are allowed but require no Zoning Permit). Listed below are the types, quantities, sizes, locations, and other requirements for both Permitted and Exempt signs. All other signs are prohibited.

A. Permitted Signs

1. Permanent business signs include, but are not limited to signs for: recreational, commercial, home industry, home occupation, business, and manufacturing unless prohibited elsewhere in these Bylaws. Each business is allowed up to three signs on the property being advertised: a) One stand alone sign not to exceed twenty (20) square feet per side, b) One building-mounted sign not to exceed six (6) square feet, c) One door sign not to exceed three and a half (3.5) square feet.
2. Official business directional signs, and signs at the entrance to Plazas, that meet the requirements of State Law.
3. One construction sign, advertising or indicating a subdivision or residential development, is allowed at the entrance of the project. It may contain the name of the General Contractor and the Subcontractors. The sign shall not exceed twenty (20) square feet per side and shall be promptly removed when construction is complete.
4. One permanent sign (no larger than fifteen (15) square feet per side), indicating a subdivision or residential development.
5. Signs existing at the time of adoption of these Bylaws are allowed, and no permits are required, unless changes are made to the size, shape, color, location or illumination of these signs.
6. The size, shape, location or illumination of permitted signs shall not be changed without approval of the Zoning Administrator.

B. Exempt Signs

1. Temporary signs (unlighted, and not to exceed six (6) square feet per side) are allowed for the purpose of advertising premises for sale or rent, items for sale, or to identify subcontractors. These temporary signs must be on the property being advertised.
2. Signs on public roads erected by the State or Town.
3. Temporary signs such as sandwich boards are allowed provided they are brought in at night.
4. Temporary banners or sale signs are allowed as long as they are displayed for less than six weeks.
5. Temporary signs or banners advertising public or community events can be displayed in designated locations on Town property with the prior permission of the Select Board, but must be removed immediately following the event.
6. Non-advertising signs for directional, safety or public service purposes.
7. One residential sign per dwelling unit identifying the occupant, not to exceed two square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.
8. Signs related to trespassing and hunting.
9. Temporary election signs to be posted and removed in accordance with State Law.
10. Window signs.
11. Bulletin boards or similar displays for announcing community affairs, political activities, etc.
12. Devices such as clocks displaying the time, temperature and/or date.
13. House numbers.
14. Temporary Public Notices.

C. General Standards

1. No sign shall be designed, constructed, or positioned, which constitutes a hazard to public safety.
2. No outdoor advertising sign shall be allowed in any district except on premise for a permitted use, unless otherwise stated in this section.
3. Signs shall have no internal illumination and may only be illuminated by a shielded continuous non-flashing light.
4. Free standing signs, as measured from the average grade of the ground to the top of the sign, shall not exceed fifteen (15) feet in height.

5. All signs shall be maintained to stay in a secure and safe condition. If the Zoning Administrator determines that a sign is not secure, safe or in good state of repair, a written warning and/or notice may be issued with a request that any defect in the sign shall be removed or repaired by its owner or permittee within thirty (30) days of notification. If the sign is not repaired or removed within the specified period, The Zoning Administrator may have the sign removed at the owner's or permittee's expense.
6. Signs are allowed in a setback area, but no sign may be placed in the road right of way, except those noted in A2 of the Permitted Signs Section above.
- 7 Wall signs that extend above the eave, and roof signs, are not allowed.

ARTICLE 5.0 GENERAL REGULATIONS

5.1 - Access to Lots

No land development may be permitted on existing lots without either:

- A.. Frontage on:
1. Class I, II III, or IV public road
 2. Town approved private road
 3. Public waters
- B. Access via a permanent easement or right-of-way at least thirty (30) feet in width for a driveway and at least fifty (50) feet in width for a road, with approval of the Development Review Board through site plan review, conditional use review, subdivision review, or right-of-way review.

5.2 - Lot and Structure Requirements

- A. No lot shall be created that does not meet the minimum dimensional and frontage requirements of the district in which it is located.
- B. It shall be unlawful to locate more than one primary structure on a lot, except in conformance with Section 6.4. All principal and accessory structures and uses shall conform with the minimum setback requirements of the district in which they are located.
- C. No new lot shall have a minimum width or depth dimension less than 100 feet.
- D. Regular shape lots are required and all lots shall conform to the town's zoning regulations. Lots designed with irregular shapes such as curves, jogs, doglegs, bowling alleys, or lots that are otherwise contorted in order to get around these regulations are not regularly shaped lots.

5.3 - Parking Requirements

Parking shall meet the requirements in Section 3.0 of Appendix A, Design and Improvement Standards. Off street parking spaces shall be provided as follows (in any district), unless modified by the Development Review Board whenever any new use is established. For existing uses and/or structures these requirements may be modified provided safety is not compromised. Shared parking is encouraged as described in Section 3.0 of Appendix A, Design and Improvement Standards.

Use	Minimum Parking Spaces Required
Lodging establishments	1 per sleeping unit
Residential	2 per dwelling unit
Church & Private School	1 per 3 seats in principal room
Club	1 per 6 members
Theater	1 per 6 seats
Hospital or Nursing Home	1 per 3 beds & 1 per employee
Professional Office, Business Service and Medical Clinic	1 per 250 sq. ft. of gross floor area
Retail Store	1 per 300 sq. ft. of gross sales area
Eating Establishments	1 per every 4 seats
Industrial	1 per each 1.5 employees on the largest shift
Other uses	As required by the Development Review Board

5.4 - Height Limits

No structure (agricultural structures exempt) shall exceed 35 feet in height above ground level

- A. Height will be measured as the vertical distance from the mean level of the finished grade of the front of the building to the ridge-line of the roof.
- B. Ornamental and symbolic features of buildings and structures including spires, towers, cupolas, belfries, and domes are exempt from the height regulations provided they are not used for human occupancy or commercial advertisement and do not take up more than 10% of the total roof area.
- C. The Development Review Board may, establish a maximum height limit less than 35 feet for any area of land, or any structure.

5.5 - Siding and Foundation

Any structure intended for the shelter of persons shall have a permanent foundation. Permanent siding shall be installed within six months after occupancy.

5.6 - Obstruction of Vision at Intersections

The corner of any lot at the intersection of two roads (either public or private) shall be cleared between a height of three feet and ten feet so as not to obstruct vision around the corner. The cleared area shall be a triangle with two sides extending along the roads to points 25 feet from the corner and the third side being a line connecting the two points.

5.7 - Location of Driveways

Except in the Growth Center District and Mixed Use District all driveways are to be located at least one hundred (100) feet from an intersection, for all uses except one and two family residential uses. The center of the traveled portion of any driveway will be no less than fifteen (15) feet from a boundary line unless shared by two abutting property owners. The installation of culverts shall be the responsibility of the property owner, subject to the prior written approval of the Selectboard. A driveway permit is required as described in Section 2.2 D.

5.8 – Location of Roads

Except in the Growth Center and Mixed Use Districts the traveled center of the road serving two or more living units or uses will be no less than fifty (50) feet from the boundary line unless shared by two abutting property owners. In the Growth Center and Mixed Use Districts the traveled center of the road serving two or more living units or uses will be no less than thirty five (35) feet from the boundary line unless shared by two abutting property owners.

ARTICLE 6.0 SPECIAL PROVISIONS

6.1 - Temporary Uses and Structures

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

6.2 - Landfill

In all districts, dumping of refuse and waste material is prohibited. Loam, rock, stone, gravel, sand, cinders, soil and other approved select materials may be used for landfill to grades approved by the Development Review Board.

6.3 - Abandonment

Within one year after the abandonment of any structure or use which has been destroyed by fire or damaged from any cause, or if active work on an uncompleted construction project has not occurred in such period, the owner shall either: remove all ruins and structural materials and restore the site to a smooth grade; or resume construction or repair to the structure.

6.4 – Principal Uses

There shall only be one principal building or structure on a lot except as described below.

- A. A structure used for dwelling purposes shall be considered an accessory structure in the case of an operating farm where up to two customary dwellings for farm laborers may be considered accessory to the agricultural uses, provided they meet the other requirements of these Bylaws except density. The dwelling units must be smaller in size and prominence than the principal farmhouse. The dwelling units may not be subdivided from the original parcel except under conformance with the subdivision regulations.
- B. A second principal use shall be considered by the Development Review Board under the Conditional Use provisions of these Bylaws.

6.5 – Boundary Adjustments

A Boundary Adjustment is the adjustment of property lines between adjacent lots and:

- A. Does not create any new lots,
- B. Does not create any non-conforming lots,
- C. Does not impact access to any parcel.

For Boundary Adjustments, the applicant will be required to provide a survey map, signed and stamped by a licensed land surveyor, indicating the new boundary lines. In addition, the applicant will be required to provide copies of amended deeds for the affected parcels, which deeds will clearly state that any land conveyed to any lot shall be merged with that lot and will not constitute an additional parcel.

Upon submission of a complete application for a boundary adjustment between two or more properties, proper payment of fees, and submission of all required supporting documentation; the following actions will take place:

- A. The Zoning Administrator shall conduct an Administrative Review of the proposed boundary adjustment and, if finding that the proposal meets all the applicable requirements of these Bylaws, shall make a written recommendation to the Development Review Board for approval of the boundary adjustment plat.
- B. The Development Review Board will hold a warned public hearing to consider the Zoning Administrator's recommendation and either approve and sign the boundary adjustment plat (mylar map), or deny the boundary adjustment.
- C. The applicant will provide a signed certification from the licensed land surveyor who prepared the survey map, indicating that all the permanent lot markers (pins) have been set.
- D. The applicant shall file the signed plat at his/her expense, in the town land records, within 180 days. (The Zoning Administrator will grant a 90 day extension to the filing deadline in response to a written request from the applicant.)
- E. The applicant shall record the amended deeds in the town land records at his/her expense.

6.6 – Administrative Review of Two Lot Subdivisions

Upon the submission of a complete application (see Article II, Section 201 of the Subdivision Regulations) for the subdivision of a parcel of land into no more than two lots, proper payment of fees, and submission of all required supporting documentation; the Zoning Administrator may conduct an Administrative Review of the proposed subdivision and make a recommendation to the Development Review Board for approval of the project final plat. This Administrative Review would replace the normal subdivision requirement for a formal Sketch Plan Review and Plat Review by the Development Review Board.

If the applicant prefers, even though the proposal meets the requirement for Administrative Review, he/she may request formal review by the Development Review Board. If, prior to or during the process of conducting the Administrative Review, the Zoning Administrator determines that the project fails to meet any of the following conditions, or that some other unusual condition exists, the Zoning Administrator will refer the project to the Development Review Board, which shall commence the review process following the normal subdivision procedures:

- A. The parcel being subdivided has not received prior subdivision approval from the town within the last two years.
- B. The parcel being subdivided has not been part of a boundary adjustment within the past two years.
- C. The subdivision is not a Planned Unit Development (PUD).
- D. The subdivision does not create any new roads (public or private) or cause an existing driveway to be upgraded to a road.
- E. The subdivision does not involve any shared water or septic systems.
- F. The intended use of the subdivided parcels is residential.
- G. The proposed lots conform to all the standards of these Bylaws regarding lot shape, size, frontage, and density.
- H. No prior condition exists which would prevent subdivision of the parcel.

If the Zoning Administrator finds that the proposed project meets all of the above conditions and does not call for a novel or difficult interpretation of the statutes, he/she may conduct the Administrative Review. Following the review, the Zoning Administrator shall present a written report of findings (with appropriate conditions) and a recommendation to the Development Review Board. The Development Review Board will then schedule a warned public hearing to review the report and either deny the subdivision or approve the subdivision and sign the plat.

6.7 Day Care and State-Registered or Licensed Family Child Care Homes

Day Care and Family Child Care Homes are allowed in all districts where single family dwellings are allowed, or are a pre-existing use.

- A. A home based facility serving six or fewer children shall be considered by right to constitute a single family use of property, and requires no permit.
- B. A State-registered or licensed family child care home serving no more than six full-time and four part-time children shall be considered a permitted use of property, but shall require Site Plan Approval and a Zoning Permit.
- C. An in-home facility serving more than six full-time and four part-time children is considered a home industry and is subject to the regulations in Section 4.5. After Site Plan Approval by the Development Review Board, a Zoning Permit shall be required.
- D. Any child care facility not meeting the above definitions shall be considered a Professional Service, and will need to follow all applicable regulations for that use. After Site Plan Approval by the Development Review Board, a Zoning Permit shall be required.
- E. All day care or family child care homes and their location must be registered with the Town Clerk for Town Emergency Management purposes.

6.8 Agricultural Structures

Agricultural Structures are exempt from these Bylaws in accordance with Section 4413(d) of the Act and the Accepted Agricultural Practice Rules. Prior to construction, the farmer must notify the Zoning Administrator in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure including the setbacks from adjoining property lines and roads. Local setbacks established by the municipality shall be maintained unless upon written petition of the farmer the Commissioner of Agriculture has approved other reasonable setbacks for the specific farm structure being constructed or maintained.

6.9 Recreational/Camping Vehicles with Sleeping Quarters

A travel trailer, recreational vehicle, motor coach or other travel vehicle with sleeping quarters may be stored or parked on a lot provided that the following conditions are met:

- A. It must meet the district setbacks.
- B. It may not be connected to a septic system that has another use.
- C. It shall not be permanently attached to the land.
- D. It shall be for non-commercial use only.
- E. It may not be occupied for more than 90 days in a calendar year.
- F. It must comply with all other provisions of these Bylaws.

Town of Fairfax



Subdivision Regulations

Adopted September 12, 2000

Amendments Adopted May 23, 2002

Amendments Adopted October 11, 2005

Amendments Adopted August 6, 2007

Effective Date August 27, 2007

ARTICLE I. GENERAL PROVISIONS

101 AUTHORITY

- A. Whereas the Town of Fairfax has appointed a Development Review Board and has in effect a town plan, the policy of the town shall be to regulate the subdivision and subsequent development of land in accordance with this document which shall be known as the Fairfax Subdivision Regulations.
- B. The Fairfax Development Review Board is hereby authorized and empowered to do all acts set forth in Title 24 VSA Chapter 117 (The Act) including but not limited to the approval, denial, and/or conditioning of plats filed as a result of action or approval by the Development Review Board. In all cases, plats previously filed without obtaining all permits required at the time of filing will be subject to these regulations.
- C. The Town of Fairfax assumes no responsibility or obligation to accept any areas, roads, or other properties proposed to be dedicated to the Town.

102 EFFECTIVE DATE

These regulations shall become effective after adoption by the Selectboard, as provided by state law (Title 24 VSA Chapter 117). The adoption of these permanent regulations supersedes any interim regulations in effect.

103 SEVERABILITY

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

104 AMENDMENTS

Amendments to these regulations shall be enacted in accordance with the provisions of the Vermont Municipal & Regional Planning & Development Act.

105 APPLICABILITY

Whenever any subdivision of land is proposed, before any contract for sale of such subdivision or any part thereof is made, the subdivider shall apply in writing to the Fairfax Development Review Board for approval according to these regulations. Contracts for sale contingent upon subdivision approval are allowed before a subdivision application is submitted and/or approved. More than one pending application per parcel will not be allowed if the proposed developments are mutually exclusive. No grading, clearing construction or other improvements related to the subdivision shall be undertaken, nor shall any permits for the erection of any structure in the proposed subdivision be issued, until the project receives Final Approval from the Development Review Board.

106 ENFORCEMENT AND PENALTIES

Any person who violates any of the provision of these regulations shall be fined not more than \$100 for each offense, and each day that a violation continues shall constitute a separate offense.

Any person who submits for recording any sale, transfer or conveyance of any land which creates a subdivision without first having recorded a duly approved final plat under these regulations or who erects any structure without first obtaining a Zoning Permit under the Zoning Bylaws shall be fined not more than \$100 per offense, and each lot, parcel, or unit so sold, transferred, or conveyed shall be deemed a separate violation.

107 FEES

There shall be no fee for review of sketch plans. Applicable fees must be paid before a Preliminary or Final Plat Review is held. Fees are according to the Town of Fairfax Fee Schedule and are non-refundable.

ARTICLE II. SKETCH PLAN REVIEW

201 SUBMISSION REQUIREMENTS

Prior to submitting an application for subdivision approval any subdivider of land must submit, to the Zoning Administrator, a sketch plan of the proposed subdivision. The sketch plan and all required information must be submitted at least 15 days prior to a regular or special meeting of the Development Review Board. The purpose of a sketch plan review is classification of the subdivision and preliminary discussion about the proposal. The complete sketch plan application needs to be legible and to scale, but does not need to be completed by a surveyor or engineer. The complete application shall include the following information:

1. Name and address of the owner of record and applicant.
2. Name of owners of record of contiguous properties, including those separated by a public or private right of way.
3. Boundaries and area of all contiguous land, including land separated by a public right-of-way, belonging to owner of record, and proposed subdivision.
4. Existing and proposed layout of property lines; type and location of existing and proposed restrictions on land, such as easements and covenants.
5. Type of, location, and approximate size of existing and proposed street, utilities, and open space. Proposed street patterns in the Growth Center and Mixed Use Districts will be designed to promote a continuous network of streets.
6. Date, true north arrow, and scale (numerical & graphic)
7. Delineation of natural features such as wetlands, shorelines, water courses, tree lines, significant rock outcroppings, hedgerows, geological sites, historic sites, prime agricultural soils, slopes of greater than 25%, designated floodplains, scenic roads or vistas.
8. Location map showing relation of proposed subdivision to adjacent property and surrounding area.
9. Proposed location for garbage collection, and method of containing garbage put out for pick-up (See Appendix A, Section 10).

202 ATTENDANCE AT MEETING

Upon submission of a complete application, the Development Review Board will schedule the sketch plan review at their next available meeting, provided this allows sufficient time for a 15-day notification for adjacent landowners. In some cases the Zoning Administrator may conduct an Administrative Review for a two lot subdivision (See Article 6, Section 6.6 of the Zoning Bylaws). The subdivider, or his duly authorized representative, shall attend the meeting of the Development Review Board to discuss the requirements of these regulations for lot layout, building location, streets, improvements, drainage, sewerage, water supply, fire protection, resource protection, and other aspects; as well as the availability of existing services and other pertinent information and conformance with the planning standards of these regulations. Adjoining property owners and the general public will be notified of this meeting in order to have input in the early stages of the project.

203 CLASSIFICATION AS MAJOR OR MINOR SUBDIVISION

The Development Review Board shall classify the sketch plan at the meeting as either a minor subdivision or a major subdivision and determine if the subdivision will be reviewed as a Planned Unit Development under both the Zoning Bylaws and the Subdivision Regulations (See Appendix B for Definitions of Minor and Major Subdivisions).

204 ACTION ON SKETCH PLAN

The Development Review Board or Zoning Administrator shall study the sketch plan to determine whether or not it conforms to the town plan, the Zoning Bylaws, any capital budget and program in effect, the official map, the local sewerage ordinance, and any other municipal regulations in effect. Where it deems necessary, the Development Review Board will make specific recommendations for changes in subsequent submissions. Where necessary for the protection of the public health, safety, and welfare, the Development Review Board may require that a minor subdivision comply with all or some of the requirements for major subdivisions specified in these regulations.

205 NUMBER OF REVIEWS

More than one sketch plan review will be permitted at the mutual discretion of Development Review Board and applicant. This is to ensure the most complete and efficient review of projects to save resources for both the applicant and the Town, and to provide public and municipal input at the earliest stages of project development.

206 MASTER PLAN REVIEW

- A. As part of the requirements established after sketch plan review, the Development Review Board may require a description of the potential build-out of the entire parcel and adjacent parcels even if the application only includes a portion of the parcel(s).
- B. When required, the Master Plan build-out shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses. The build-out may be drawn in a sketch plan format. The Development Review Board may require that the build-out be submitted as part of an extended sketch plan review, or as a part of the preliminary or final plat.
- C. Requirements for Master Plan review are intended to ensure the orderly development of the Town, and will be required when the Development Review Board determines that the development currently under application may have an impact of the future developability of the remaining parcel or adjacent parcels. It will also be required when the Development Review Board determines that the future build-out of the applicant's holdings, combined with the current proposal may have a significant impact on the town of Fairfax.
- D. Approval of an applicant's current application does not constitute approval of the Master Plan build-out.

ARTICLE III. MINOR SUBDIVISION APPLICATION PROCESS

301 APPLICATION PROCESS

Within 6 months of classification of the sketch plan as a minor subdivision (9 or less lots, see Appendix B for more information) by the Development Review Board, the subdivider shall submit application materials for approval of a subdivision final plat to the Zoning Administrator. Complete application materials shall contain those items set forth in Section 302 of these regulations, plus any other items that may be required by the Development Review Board. The plan shall conform to the layout shown on the sketch plan plus any recommendations made by the Development Review Board and agreed upon by the applicant. At the expiration of 6 months from classification by the Development Review Board, the subdivider shall be required to resubmit a sketch plan in accordance with Article II, unless an extension of up to six months has been requested in writing and is granted by the Development Review Board. The Zoning Administrator may require additional copies of the documentation presented, for use of individual Development Review Board members in preparation for the hearing.

302 FINAL PLAT FOR MINOR SUBDIVISIONS

The final subdivision plat shall consist of one copy of one or more sheets of drawings and shall show:

1. Proposed subdivision name or identifying title; name and address of owner of record and subdivider; name, signature, license number, and seal of licensed land surveyor in the State of Vermont; boundaries of the subdivision and its general location in relation to existing streets or other landmarks; scale, date, and north arrow.
2. Street names and lines, pedestrian ways, lots, reservations, easements, building envelopes, and area to be dedicated to public use.
3. Sufficient data acceptable to the Development Review Board to determine readily the location, bearing, and length of every street line, lot line, building envelope, boundary line, and to reproduce these lines on the ground.
4. Final design of all roadways.
5. All public open space or recreation land for which offers of cession are made by the subdivider, and those spaces title to which is reserved by the subdivider.
6. Total acreage of the subdivision and each proposed lot with lots numbered and identified.
7. Density calculations for each lot and subdivision as a whole.
8. Locations of all utility poles, and location and design of sewage disposal systems, water supply systems, rough grading and other devices and methods of controlling drainage and erosion within the subdivision.
9. Final design of all bridges and culverts that are a part of the subdivision.
10. All engineering plans submitted at this time will be prepared by an Engineer licensed to conduct business in the State of Vermont, and will contain his seal and signature.
11. The following supporting documentation:
Copies of proposed deeds, agreements, or other documents showing the manner in which streets and open space, including park and recreation areas, and other common elements like shared or community septic systems or water supplies are to be dedicated, reserved, and maintained, and in which significant natural resources are to be protected and maintained, as applicable. The Town of Fairfax assumes no responsibility or obligation to accept any areas, roads, or other properties proposed to be dedicated or conveyed to the Town.
12. Proposed location for garbage collection, and method of containing garbage put out for pick-up (See Appendix A, Section 10).

303 PUBLIC HEARING

A public hearing shall be held by the Development Review Board at the earliest available regular or special meeting after the time of submission to the Zoning Administrator of a complete application for final plat approval of a minor subdivision. The hearing shall be warned as a Final Plat Review in accordance with the public notice provisions of the Act, 4463(a) and 4464(a), and notice of the hearing shall be sent to those required to receive notice under the provisions of the Act. See Article 2.0, Section 2.1D of the Zoning Bylaws for additional requirements for Public Notice.

304 FINAL APPROVAL

The Development Review Board shall approve, approve with conditions or deny such final plat within 45 days after the completion of the public hearing, or any continuation of the hearing. If the Development Review Board fails to act within 45 days the final plat shall be deemed approved.

ARTICLE IV. MAJOR SUBDIVISION APPLICATION PROCESS**401 PRELIMINARY PLAT APPLICATION PROCESS**

Within 6 months of classification of the sketch plan as a major subdivision by the Development Review Board (ten or more lots, see Appendix B for additional information), the subdivider shall submit complete application materials for approval of a preliminary plat to the Zoning Administrator. Complete application materials shall include those items set forth in Section 402 of these regulations, plus any other items for a major subdivision that may be required by the Development Review Board. The proposal in the application materials shall conform to the layout shown on the sketch plan plus any recommendations made by the Development Review Board. At the expiration of 6 months from classification by the Development Review Board, the subdivider shall be required to resubmit a sketch plan in accordance with Article II unless an extension of up to six months has been requested in writing and is granted by the Development Review Board.

402 PRELIMINARY PLAT FOR MAJOR SUBDIVISIONS

The preliminary plat shall consist of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to scale, showing or accompanied by the following information:

1. Name and address of the owner of record of the property and of adjoining properties.
2. Name and address of person or firm preparing the map. Scale of map, north arrow, and date. Name, address, and interest of the applicant in the subject property.
3. Map or survey of the property prepared by a landscape architect, registered land surveyor, registered civil engineer, or registered architect; showing number of acres within the proposed subdivision, location of property lines, existing easements, deed restrictions, and existing features including contours at intervals of 5 feet unless otherwise *waived* by the Development Review Board at sketch plan review, buildings, wooded areas, streets, water courses, existing foundations, hedgerows, stonewalls and fence lines, and other existing physical features such as large trees and rock outcroppings, and any other significant natural resources.
4. All parcels immediately adjacent to the proposed subdivision, including those separated by a public or private right-of-way, with the names and addresses of owners of record of such adjacent acreage.
5. Provisions of the zoning regulations and any zoning district boundaries applicable to the proposed subdivision.
6. Location and size of any existing sewers and water mains, individual or community sewage disposal systems, wells, culverts, and drains on the property to be subdivided.
7. Site development plan, prepared by a landscape architect, registered land surveyor, registered civil engineer, or registered architect, showing the proposed lot lines with approximate dimensions and building envelopes; the location of proposed structures and their use; streets, driveways, traffic circulation, parking, and pedestrian ways. Proposed street patterns in the Growth Center and Mixed Use Districts will be designed to promote a continuous network of streets. The site development plan must also include the landscape plan, with site grading, landscape design, street trees, and screening; utility lines; lighting; water supply sources; sewage disposal areas; and land to be set aside for public use.
8. Contour lines at intervals of 5 feet of proposed finished grades where change of existing ground

elevations will be 5 feet or more, unless otherwise required by the Development Review Board in sketch plan review.

9. Typical cross sections of the proposed grading, of roadways, and of sidewalks. Road profiles of roadways within the subdivision.
10. Construction sequence and time schedule for completion of each phase of the subdivision.
11. Means of providing water supply to proposed subdivision, including any fire ponds.
12. Means of disposal of septic wastes including design and location. Results of tests to ascertain soil suitability and percolation rates for onsite systems.
13. Drainage plan for collecting and discharge of stormwater.
14. Preliminary designs for any bridges or culverts that may be required.
15. Location of temporary markers adequate to enable the Development Review Board to locate readily and appraise the basic layout in the field.
16. All parcels of land proposed to be dedicated to public use and conditions of such dedication.
17. Any wetlands present on the property to be developed as indicated by the National Wetlands Inventory Maps, available at the Town office or through the Vermont Department of Water Resources; and any significant wildlife habitat as identified by the Vermont Department of Fish & Wildlife.
18. A vicinity map drawn at the scale of not over 400 feet to the inch showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
19. Density calculations for each lot and the subdivision as a whole.
20. Proposed location for garbage collection, and method of containing garbage put out for pick-up (See Appendix A, Section 10).

403 PRELIMINARY PLAT PUBLIC HEARING

After submission of the completed application material to the Zoning Administrator, the Development Review Board shall hold a public hearing on the preliminary plat at the earliest available regular or special meeting. The hearing shall be warned in accordance with the public notice provisions of the Vermont Municipal & Regional Planning & Development Act, Sections 4463(a) and 4464(a). See Article 2 Section 2.1.D of the Zoning Bylaws for additional requirements for public notice.

404 ACTION ON PRELIMINARY PLAT

Within 45 days of the completion of the public hearing, or any continuation of the hearing, the Development Review Board shall approve, approve with conditions, or deny the preliminary plat. The grounds for any modifications required or denial shall be stated in a written notice of decision. If the Development Review Board fails to act within the 45-day period the preliminary plat is approved. Copies of the notice of decision shall be sent to the applicant and any interested parties appearing at the public hearing within the 45-day period. Minutes of the Preliminary Plat Hearing may suffice as the written notice of decision (See Section 4464 (b) (1) of the Act).

405 PHASING

At the time the Development Review Board grants preliminary plat approval, it may require the plat to be divided into two or more phases to be developed at separate times. The Development Review Board may impose specific conditions for the filing of an application for final plat approval to ensure the orderly development of the plat and coordination with the planned and orderly growth of the town as reflected in the town plan and any capital budget and program in effect.

406 EFFECT OF PRELIMINARY PLAT APPROVAL

Approval of a preliminary plat does not constitute approval of the subdivision plat and does not guarantee approval of the final plat. Prior to approval of the final subdivision plat, the Development Review Board may require additional changes as a result of further study. The approval of a preliminary plat is effective for a period of 1 year. Any plat not receiving final approval prior to the expiration of 1 year shall be null and void, and the subdivider shall be required to resubmit a new plat for sketch plan review subject to all new zoning and subdivision regulations. Should the Development Review Board impose phasing as a condition of preliminary plat approval, it may extend the 1-year effective period of preliminary approval. Any extension of time granted for this reason will be specifically included in the written decision of preliminary plat approval. The Development Review Board may also grant extensions beyond this one-year period even for projects not involving phasing, when the delays are due to circumstances beyond the applicant's control.

407 FINAL PLAT APPLICATION PROCESS

Within 6 months of preliminary plat approval, the subdivider shall submit complete application materials for approval of a final subdivision plat (see Section 408). This is necessary to ensure review of final plat application materials within the one year time frame established in Section 406. Any application materials received beyond six months from preliminary plat approval will be subject to all new zoning or subdivision regulations. The application materials will be sent back to sketch plan review if regulations or circumstances have changed that would alter the original decision under preliminary plat.

The application materials for final plat approval must include the items listed in Section 408 of these regulations, and must conform to the layout shown on the preliminary plat except as amended as a result of recommendations made by the Development Review Board. If final plat approval has not been given at the expiration of 1 year from preliminary plat approval, the subdivider shall be required to resubmit a sketch plan in accordance with Article II, unless extended by the Development Review Board under Section 406 above.

408 FINAL PLAT FOR MAJOR SUBDIVISIONS

The final subdivision plat shall consist of one copy of one or more sheets of drawings that shall conform in all aspects to the preliminary plat as approved by the Development Review Board and shall show:

1. Proposed subdivision name or identifying title; name and address of owner of record and subdivider; name, license number, and seal of licensed land surveyor; boundaries of the subdivision and its general location in relation to existing streets or other landmarks; scale, date, and north arrow.
2. Street names and lines, pedestrian ways, lots, reservations, easements, building envelopes, and area to be dedicated to public use.
3. Sufficient data acceptable to the Development Review Board to determine readily the location, bearing, and length of every street line, lot line, building envelope, boundary line, and to

- reproduce these lines on the ground.
4. Final design of all roadways. Street patterns in the Growth Center and Mixed Use Districts will provide for a continuous network of streets.
 5. All public open space or recreation land for which offers of cession are made by the subdivider, and those spaces title to which is reserved by the subdivider.
 6. Total acreage of the subdivision and each proposed lot with lots numbered and identified.
 7. Locations of all utility poles, sewage disposal systems, water supply systems, and rough grading and other devices and methods of draining the area within the subdivision.
 8. Final design of all bridges and culverts that are a part of the subdivision.
 9. All engineering plans submitted at this time will be prepared by an Engineer licensed to conduct business in the State of Vermont, and will contain his seal and signature.
 10. The following supporting documentation:
 - A. Copies of proposed deeds, agreements, or other documents showing the manner in which shared community resources, including roads, septic systems, water supplies, common land and open space, including park and recreation areas, are to be dedicated, reserved, and maintained, and showing the manner in which significant natural resources are to be protected and maintained. The Town accepts no responsibility for the content of these documents and the manner in which they are implemented and enforced.
 - B. Any other documents required by the Development Review Board as a result of preliminary plat approval.
 11. Proposed location for garbage collection, and method of containing garbage put out for pick-up (See Appendix A, Section 10).

409 FINAL PLAT HEARING

The Development Review Board at the earliest available regular or special meeting following the submission of a final plat to the Zoning Administrator shall hold a public hearing. The hearing shall be warned according to the public notice provisions of the Vermont Municipal & Regional Planning & Development Act, Section 4463(a) and 4464(a), and notice of the hearing shall be sent to those required to receive notice under the provisions of the Act. See Article 2 Section 2.1D of the Fairfax Zoning Bylaws for additional requirements for public notice.

410 FINAL PLAT ACTION

Within 45 days after the public hearing or any continuation of the hearing, the Development Review Board shall approve, approve with conditions, or deny the final plat. Failure to act within 45 days shall be deemed approval.

ARTICLE V. GENERAL APPLICATION REQUIREMENTS

501 NUMBER OF COPIES

One original set of application materials is required for submissions under these regulations. Additional copies may be requested for use by Development Review Board members.

502 APPLICATION FEES

Upon submission of an application for subdivision plat approval, the subdivider shall pay application fee(s) as established by the Selectboard. Such fee(s) shall include the costs of publication, public hearings, site visits, and for periodic inspections by town employees or consultants during the installation of public improvements. Fees will be collected by the office of the Zoning Administrator and fees must be paid before the first Plat Hearing is held. Fees are non-refundable.

503 LEGAL DOCUMENTS

All proposed deeds conveying property or easements to the town, non-profit organization, or the State of Vermont shall also accompany the final application. In addition, a draft of all restrictions of all types, including rights-of-way that will run with the land and become covenants shall be filed with the final application. The Development Review Board may require the filing of other legal documents as it deems necessary in the enforcement of these regulations.

504 WAIVERS

The Development Review Board may waive or vary, subject to appropriate conditions, the provisions of any or all improvements and application submission requirements it judges are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate both in the short and long term.

In granting waivers or variances, the Development Review Board shall require such conditions as will secure substantially the objectives of the requirements waived or varied. No such waiver or variance shall be granted if it would have the effect of nullifying the intent and purpose of the town plan or varying the Fairfax Zoning Bylaws, Subdivision Regulations, or other Town ordinances.

505 FILING OF FINAL PLAT

Upon approval of the final plat by the Development Review Board, the subdivider shall prepare a copy of the plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. The plat shall be on mylar, clearly and legibly drawn, and the size of the sheets shall be 18 inches by 24 inches. Such sheets shall have a margin of 2 inches outside of the borderlines on the left side for binding and a 1-inch margin outside the border along the remaining sides. Space shall be reserved for endorsement of all the appropriate agencies. All permit conditions set by the Development Review Board shall be filed in the land records of the town and their location must be clearly printed on the plat. The chairperson of the Development Review Board shall endorse in writing on said plat such approval and the date. The subdivider shall file the final plat with endorsement with the town clerk within 180 days of the Development Review Board's final approval. Final approval shall expire if the subdivider does not receive endorsement and file the final plat and related documents within the 180-day period. The Zoning Administrator, upon written request prior to the expiration date, shall extend the date for filing the plat by an additional 90 days.

506 REVISIONS

No changes, erasures, modifications, or revisions shall be made on any subdivision plat after final approval, unless said plat is first resubmitted to the Development Review Board in accordance with these regulations and the Development Review Board approves the modifications. At the Development Review Board's discretion, sketch plan and where applicable, preliminary plat review, may be combined into final plat review.

507 EFFECT OF FINAL APPROVAL

Final approval by the Development Review Board shall not be deemed to constitute or be evidence of any acceptance by the town of any street, road, easement, utilities, park, recreational area, or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard. Approval of the final plat shall not exempt an applicant from compliance with all applicable bylaws, regulations, and ordinances.

ARTICLE VI. PLANNING STANDARDS

601 APPLICATION OF STANDARDS

The Development Review Board shall evaluate any minor or major subdivision in accordance with the following standards. The Development Review Board may require the subdivider to submit data addressing impacts related to these standards. In light of findings made on these standards, the Development Review Board may require modification and phasing of the proposed subdivision or correction of any adverse impacts. *In addition to the standards outlined below, all subdivisions must meet the requirements outlined in Appendix A: Required Improvements and Design Standards.*

602 OVERALL STANDARD OF REVIEW

Land shall not be subdivided in such a way that structures, roads, and utilities occur on land that is unsuitable due to flooding, improper drainage, steep slopes greater than 25%, soils that are shallow to bedrock or have a high water table, rock formations, adverse earth formations or topography, utility easements or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas. The site shall be found suitable for the proposed density of development. The proposed development must comply with the town plan, zoning regulations, and other bylaws and ordinances of the Town of Fairfax.

603 PLANNING STANDARDS

- A. The proposal shall give due regard for the preservation of existing site features, including large trees, significant rock outcroppings, ridge tops, streams, shorelines, and other water bodies, wetlands, open spaces and agricultural lands.
- B. Developments shall be designed to encourage energy-efficient siting of buildings and access to renewable energy resources.
- C. The proposed development shall be compatible with land uses, lot configuration, road network, and natural features on surrounding properties.
- D. The Development Review Board may require phasing of subdivisions to lessen the burden placed on the ability of local government to provide services and facilities.
- E. Subdivisions shall be designed so that residential uses and water supplies are sited so as to minimize conflicts with agricultural operations.

604 LOT LAYOUT

A. LOT SHAPE

Lots shall be designed with consideration of natural and manmade features such as tree lines, stonewalls, ridgelines, roads, shorelines or other features recognizable on the land. Where this requirement conflicts with section D below, this requirement shall govern.

B. REGULARLY SHAPED LOTS

Regularly shaped lots are required and all lots shall conform to the town's zoning regulations. Lots designed with irregular shapes such as curves, jogs, doglegs, bowling alleys, or lots that are otherwise contorted in order to get around these regulations are not regularly shaped lots.

C. CORNER LOTS

Corner lots shall have sufficient width to permit a front yard setback on each street.

D. SIDE AND REAR LOT LINES

Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines; variations of up to 15° will be accepted. Rear lot lines will be generally parallel to front lot lines; variations of up to 15° will be accepted.

E. EXCEPTIONS

Exceptions may be made from the above (A-D) lot shape requirements only where expressly permitted by the Development Review Board. Exceptions will be approved only when warranted by conditions of topography, protection of natural resources, existing road location and/or shape or use of the tract being subdivided and when, in the judgment of the Development Review Board, no other form of subdivision of the property, including Planned Unit Development is appropriate or possible without severe hardship to the applicant.

F. LOT DESIGN

Lots shall be designed to provide appropriate water supply and sewage disposal. The applicant shall demonstrate that soil conditions on-site are adequate to accommodate the installation of a wastewater disposal system designed in accordance with State requirements of sufficient capacity for the intended use: or that an alternative, off-lot disposal location secured through an easement or other form of legal conveyance is similarly suitable and available. Lot design shall also provide for the protection of natural resources and aesthetic considerations and shall comply with other standards set by these regulations.

G. LOT SIZE AND DENSITY

1. Lot sizes and densities in the zoning bylaw are a **minimum** standard that will not always be possible to meet in a subdivision. Given the physical limitations to development on land in the town and the significant natural and agricultural resources in the town that are a high priority for protection in the Town Plan, lower densities may be appropriate and required in some cases.
2. The area within a subdivision that falls under the following categories shall not be considered in the calculation of land available for development based on the density requirements of the Zoning Bylaws:
 - a Subject to an easement which would prevent construction within the easement area.
 - b Required for public roads, private roads, or public recreation.
 - c Undevelopable because of state wetland or other environmental regulations.
 - d Unsuitable for development because of steep slopes of 25% or greater (see section 604I).
 - e Located in a flood plain.
 - f Otherwise undevelopable because of local, state, or federal regulations.

The Development Review Board may waive this requirement in part or in whole when the subdivision is designed as a Planned Unit Development (PUD), and in the judgment of the Development Review Board the design of the PUD adequately protects these resources.

H. PRODUCTIVE LAND

In the Conservation and Agricultural and Forestry Resource Districts the Development Review Board shall encourage and may require lot layout that will conserve and/or maintain access to open areas in blocks large enough for productive agriculture and forestry. Planned Unit Development will be encouraged.

I. TOPOGRAPHY

Consideration in lot layout shall be given to topographic drainage and soils conditions. Steep slopes of 25% grade or greater, are unsuitable for development of structures, roads, and public utilities.

J. ACCESS

Lots shall be laid out so as to avoid direct access to heavily traveled streets or highways. The Development Review Board may require two access points for large subdivisions of greater than 10 lots to protect the public health, safety, and welfare.

Town of Fairfax



Appendix A: Required Improvements and Design Standards

Adopted September 12, 2000

Amendments Adopted May 23, 2002

Amendments Adopted October 11, 2005

**Amendments Adopted August 6, 2007
Effective Date August 27, 2007**

APPENDIX A.

REQUIRED IMPROVEMENTS & DESIGN STANDARDS APPLICABLE TO ZONING BYLAWS AND SUBDIVISION REGULATIONS

GENERAL

These standards apply to all conditional uses, site plan reviews and subdivisions unless noted otherwise. **Applicants will be required to meet these standards and should plan accordingly early in the development process.**

1.0 VEHICULAR ACCESS MANAGEMENT REGULATIONS

The standards of this section shall apply to all proposed public roads, private roads serving two or more units or lots, and driveways where specifically noted. In addition, these standards may be applied to private driveways serving one unit or lot when the Development Review Board determines that such standards are necessary to provide suitable access or to accommodate potential future development. Additional requirements regarding the construction of roads and driveways are found in Appendix D.

A. ARRANGEMENT

The arrangement of roads and driveways shall provide for the continuation and proper projection of roads through adjoining properties, regardless of ownership, which are not yet fully developed or subdivided. This is required in order to provide efficiently for necessary fire protection, movement of traffic, and construction or extension of utilities and public services. The Development Review Board may require easements for future roads to connect properties. This requirement may be modified by the Development Review Board in cases where natural features or topographical barriers prevent connections.

B. TOPOGRAPHY

Roads and driveways shall be logically related to the topography so as to produce usable lots and safe grades and intersections in appropriate relation to the proposed use of the land served by the roads.

C. ACCESS TO MAJOR ROADS

The Development Review Board may require a common access point to serve multiple properties under single or different ownership in order to limit the number of curb cuts onto major roads and state highways. Shared access to adjoining properties may be required where possible. The Development Review Board may limit access to the property to a side street or secondary road, or previously approved access on the subject property or adjoining properties. Where traffic access is required to only a portion of the land, sharing that access with future uses for the remainder of the parcel may be required.

D. THROUGH TRAFFIC

Except in the Growth Center/Mixed Use District, minor roads shall be laid out in a manner that discourages their use by through traffic.

E. DEAD ENDS

Dead end roads are discouraged, and right-of-ways or easements may be required by the Development Review Board as described above to ensure a continuous network of roads and streets. No dead end road shall be permitted without a suitable cul-de-sac or a hammerhead at its terminus.

F. INTERSECTIONS

New intersections along one side of an existing street shall, if possible, coincide with any existing intersections on the opposite side of the street. Otherwise, "T" intersections are encouraged. Jog intersections with centerline offsets of less than 200 feet shall not be permitted. All road intersections shall be as nearly at right angles as possible, and in no case shall be less than 75 degrees.

G. ACCESSIBILITY

All occupied structures must be accessible by emergency and service vehicles.

H. EXISTING ACCESS

Where an existing access road or driveway is inadequate or unsafe, the Development Review Board will require the applicant to upgrade that access road to the extent necessary to serve additional traffic from the subdivision.

I. SIGHT DISTANCES

Sight distances for all roads and driveways should be consistent with probable traffic speed, terrain, alignments, and climactic extremes.

J. DRAINAGE

A storm water system shall be provided which is designed to control and accommodate storm water collected on all proposed roads and/or parking areas.

K. RIGHTS-OF-WAY

Rights-of-way for all roads shall be 50 feet in all districts unless the Development Review Board deems it appropriate for environmental, conservation, or safety reasons to change the width of the right-of-way.

L. DESIGN

All roads and driveways must follow the most recent versions of the "Fairfax Town Road and Bridge Standards" and Appendix D - Subdivision Regulations for Construction or Improvement of Roads and Driveways.

M. TRAFFIC IMPACT

The proposed development will not cause unreasonable highway congestion or unsafe conditions with respect to the use of roads and highways in the town. The Development Review Board may require modifications to the access and circulation within and to the property including, but not limited to reduction in curb cuts; change in location or number of access points; provisions for emergency vehicles; turning lanes; shared access with adjoining property owners; installation of frontage or service roads. The applicant may be required to complete a transportation impact study for Major Subdivisions and other large developments.

N. STREET NAMES & SIGNS

All roads, whether public or private, and driveways serving two or more developed properties shall be named and identified by road signs as required by the town. All other signs must meet the requirements of the Zoning Bylaws. A private road or driveway sign must be installed by the developer, at his/her cost, before a building permit will be issued. (For more information, refer to the Town of Fairfax Ordinance regarding Road Names and Road Addresses.)

O. OTHER REGULATIONS

The Vehicular Access Management Regulations shall incorporate, by reference, elements of sections 1.3, 2.2, 3.4, 4.1, 4.11, 4.12, 5.3, 5.6, 5.7, and 5.8 of the Zoning Bylaws and Section 604 of the Subdivision Regulations, Section 3.0 of Appendix A – Required Improvements and Design Standards, and all of the Subdivision Regulations for Construction or Improvement of Roads and Driveways (Appendix D). In considering and ruling on issues of vehicular access management, the Development Review Board shall also consider any other sections of the Zoning Bylaws, Subdivision Regulations, Appendices to the Zoning Bylaws and Subdivision Regulations, and other ordinances; as deemed appropriate and relevant.

2.0 ADEQUATE PEDESTRIAN CIRCULATION & ACCESS

- A. All developments in Fairfax shall contain provision for pedestrian traffic that is adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties.
- B. Curbs and sidewalks will be required in the Growth Center and Mixed Use Districts, and may be required in other districts as appropriate; graded areas along one side of a street or access road may be required in rural areas. (Refer to Vermont Agency of Transportation, Pedestrian and Bicycle Facility Planning and Design Manual, Chapter 3, for guidance.)

3.0 PARKING

- A. Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
- B. Parking areas may be required to be landscaped or screened from adjacent uses.
- C. Parking shall be located in the side /rear of the development unless, upon the judgment of the Development Review Board, some or all parking in the front is more appropriate.
- D. Parking will be prohibited from the front, side, and rear yard setback areas unless, upon the judgment of the Development Review Board, some or all parking in the setback areas is more appropriate.
- E. Relocation or redesign of parking areas may be required to limit runoff and control erosion.
- F. The Development Review Board may limit the size and location of any paved area.
- G. All parking areas shall be clearly defined and marked.
- H. The Development Review Board may limit the amount of parking or require shared parking among compatible uses where appropriate.

4.0 SITE PRESERVATION & AESTHETICS

A. EXISTING FEATURES

Site amenities such as trees and tree lines, water courses or drainage ways, scenic roads, historic sites, unique geologic features, fences, stone walls, or any other features which the Development Review Board feels are an asset to the site and/or community shall be preserved insofar as possible through harmonious design and appropriate construction methods in accordance with policies and goals set forth in the town plan. Development near shorelines and stream banks shall maintain existing vegetation as much as possible.

B. LANDSCAPE IMPROVEMENTS

Developments requiring site plan review must meet these landscape improvement standards. In addition, the Development Review Board will use these standards as guidelines for review of all major subdivisions, and minor subdivisions where landscape improvements are necessary. Particular consideration shall be given the visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site.

1. Landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well kept grasses, ground cover, and site modifications such as berms.
2. Landscaping is required to be installed and maintained in front and side yards and may be required where rear yards abut residential properties or public roads. Adequate setbacks and site grading may be required to insure that the plantings are not adversely affected by traffic and road salt. Street trees may be required along state and town highways particularly in the Growth Center and Mixed Use Districts. Landscaping shall be installed within a time frame established by the Development Review Board.

3. In determining the amount and type of plantings to be required, the Development Review Board shall take into account at least the following:
 - a. Existing trees, shrubs, evergreens and other vegetation to be preserved on the site;
 - b. The visibility of incompatible or unsightly areas from public roads and/or adjacent properties;
 - c. The landform and overall landscaping plan for the development;
 - d. Other factors which affect the safety and appearance of the development.
4. Parking areas for uses other than single and two-family dwellings will be required to be landscaped or screened from adjacent uses.

C. EROSION & SEDIMENT CONTROL

All areas exposed during construction shall be protected in accordance with standards contained in the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites published by the Vermont Department of Environmental Conservation, Agency of Natural Resources, including any updated versions of this publication. The requirement for a State of Vermont Erosion Control Permit shall be determined by an engineer licensed to conduct business in the State of Vermont.

5.0 OUTDOOR LIGHTING

The Development Review Board will require outdoor lighting where necessary to illuminate areas such as streets, sidewalks, and parking areas. Outdoor lighting fixtures must be designed to shield the light source and direct light downward. It must be located and adjusted so as not to cast light directly on adjacent roadways or properties. Spotlights are generally not permitted. High Pressure Sodium lamps are not allowed unless used as an addition to an existing lighting scheme.

The Development Review Board may prohibit fixtures that cause excessive glare within the property or on adjoining properties. They may limit or adjust the number, intensity, and location of fixtures to provide for even treatment of lighting, reduce impacts on the night sky, and to ensure limited impact on surrounding properties.

6.0 DRAINAGE

A. REMOVAL OF SPRING OR SURFACE WATER

The subdivider shall remove, either by pipe or by open ditch, spring or surface water that may exist, either previous to or as a result of the subdivision or other development. In design of the drainage system, natural waterways and drainage ways shall be used to the fullest extent possible. Any necessary new drainage structures shall be located in the road or street right-of-way when feasible, or in unobstructed easements of adequate width for maintenance.

B. ACCOMMODATION OF DEVELOPMENT UPSTREAM

Drainage facilities shall be designed to accommodate potential run-off from the entire upstream drainage area, based upon conditions of total potential development.

C. RESPONSIBILITY FOR DRAINAGE DOWNSTREAM

To prevent flooding and erosion, the Development Review Board may require the applicant to maintain the post-development peak storm water flows at pre-development levels and/or make down-gradient improvements.

D. STORM WATER TREATMENT

The applicant shall provide an appropriate level of storm water treatment to ensure that receiving waterways are not adversely affected.

E. DESIGN STORM

All drainage facilities and easements shall be designed for the following storm frequency based upon the location of the facility or easement, except when the Development Review Board determines it is appropriate to design for a less frequent event:

Subdivision System: 10-Year Storm

Town Road System: 25-Year Storm

7.0 WATER SUPPLY**A. INDIVIDUAL WATER SUPPLIES**

If the proposed development is to be serviced by individual wells, the applicant shall provide evidence of the location and availability of potable water in adequate quantities. Applicants may be required to enable sharing of identified water sources among lot owners where applicable.

B. SHARED WATER SUPPLIES

Water supplies shared by two or more parcels shall be permitted, provided that the applicant provides evidence of the location and availability of potable water in adequate quantities. Appropriate assurance shall be required defining the responsibility of the parties for the maintenance and repair of a shared water supply, along with evidence of any easements required for access to a shared water supply.

C. COMMUNITY WATER SYSTEMS

Community water systems shall be designed and installed in accordance with all applicable municipal and state regulations and standards. Community systems may be required to be designed in such a way that they may eventually be connected to a municipal water supply system. Long-term provisions for the replacement and maintenance of these systems by the users must be provided in the Deeds or through an Association's Covenants or Bylaws. A Certified Public Water System Operator may be required.

D. STANDARDS

The following standards shall be met for developments being serviced by individual water supplies, shared water supplies or community water systems:

1. Due consideration shall be given to the drainage patterns in the area.
2. Building sites and new streets shall be located far enough away from underground water concentrations or surface areas that take in water, to prevent runoff from roads or leachate from septic systems from contaminating water supply.
3. Buildings and septic systems shall be located, as specified in the Town of Fairfax "Flood Hazard Area Regulation Ordinance", sufficiently above flood water levels and high ground water areas to prevent the pollution of surface water.
4. There shall be no adverse impact on existing water supplies from the proposed water supply for the development.

E. FIRE PONDS AND DRY HYDRANTS

Fire ponds or dry hydrants may be required for major subdivisions and other developments remote from existing water sources adequate for fire fighting. Fire ponds and dry hydrants shall be accessible for use in an emergency on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the state or the National Wetlands Inventory.

8.0 SEWAGE DISPOSAL**A. COMMUNITY SYSTEMS**

Community sewage disposal systems shall be designed and installed in accordance with all state regulations and standards. Community sewage disposal systems may be required to be designed in such a way that they may eventually be connected to a municipal sewage disposal system. An association must be established with Bylaws and/or Covenants containing provisions for the replacement and maintenance of these systems.

B. INDIVIDUAL SYSTEMS

Individual septic systems shall meet the requirements of all applicable state regulations and standards.

9.0 UTILITIES**A. CONNECTION & SUPPLY**

All utility systems, existing and proposed, throughout the development shall be shown on the final plat. The applicant shall provide evidence of coordination in the design with the utility companies to ensure adequate supplies and connections.

B. EASEMENTS

Easements of sufficient width shall be provided so as to serve existing development, proposed development, and anticipated future development. Such easements shall be shown on the final plat or site plan application.

10. WASTE MANAGEMENT

- A. Any parcel that is developed which has frontage on a town road will deposit its garbage and recycling at the intersection of its driveway (or approved right-of way) and the town road, at the designated time and day of garbage collection as established by the Town of Fairfax.
- B. Any parcel or development which does not have frontage on a town road will deposit its garbage and recycling in an area established for that purpose by approval of the Development Review Board, or will make arrangements for pick-up at each dwelling with a private contractor. The Development Review Board may require such designated areas to be enclosed in an appropriate manner to prevent the unwanted dispersal of garbage prior to pick-up.

Town of Fairfax



Appendix B: Definitions

Adopted September 12, 2000

Amendments Adopted May 23, 2002

Amendments Adopted October 11, 2005

Amendments Adopted August 6, 2007
Effective Date August 27, 2007

APPENDIX B.

DEFINITIONS APPLICABLE TO ZONING BYLAWS AND SUBDIVISION REGULATIONS

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. The word "shall" is mandatory and the word "may" is permissive. Where doubt exists as to the precise meaning of any word or words in these regulations, the Development Review Board shall rule on the interpretation.

Accessory Apartment: An efficiency or one bedroom apartment located within or appurtenant to an owner occupied single family dwelling, that is clearly subordinate to a single family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

Accessory Use/Structure: A use or structure which is incidental and subordinate to the principal use or structure and located on the same lot such as patios, swimming pools, porches, garages, tool sheds and the like. See Section 6.8 of the Zoning Bylaws for exceptions for agricultural structures.

Agribusiness: Any individual, partnership, corporation, or organization primarily supplying services or goods (such as equipment, feeds, or supplies) to producers of marketable agricultural products.

Agricultural Use: Land used for cultivating the soil and producing crops or raising livestock, for the purpose of economic gain, including the sale of such farm crops horticultural products, livestock or forest products raised on the property, but not including slaughter houses.

Appeal: A procedure conducted in accordance with Sections 4465, 4466, 4468, 4470, 4471 and 4473 of the Act.

Area: Area shall be calculated from dimensions taken on a horizontal plane at the average grade level

Auto Service Stations: Any lot or area of land, including the building or buildings thereon, which has enclosed facilities for lubricating, washing or servicing motor vehicles by any means for commercial purposes. An auto service station is one that is engaged in general repairs of automobiles, farm and construction equipment for vehicles up to 2 tons, and sales incidental to the operation. Includes body shops, vehicle electrical and mechanical repair shops, and the like, but does not include retail sale of gasoline. Auto Service Stations that include retail sale of gasoline are classified as Gas/Service Stations.

Bed and Breakfast: An existing residential building that is used as a residence and which contains not more than eight sleeping rooms, with or without individual sanitary facilities, for rental accommodation for durations not typically more than two (2) weeks, which serves breakfast to guests and may serve other meals to guests. An accessory building to a residence is not a bed and breakfast facility.

Boundary Adjustment: Adjustment of property lines between adjacent lots that does not create any new lots, does not create any non-conforming lots, and does not impact access to any parcel.

Building: A structure designed, built or used as a shelter for persons, animals or property. Buildings shall include lunch wagons, travel trailers and mobile homes when sited in such a manner that they are not readily moveable.

Building Envelope: The location(s) on a lot within which a structure may be permitted to be built, the area outside of which may not be built upon because of these or other regulations.

Campground: A place or business providing tenting or travel trailer access and accommodations for camping purposes where money or other valuable consideration is exchanged for such use.

Casual Sale: The occasional (not more than six (6) days per year) sale of goods on your own property. Casual sale includes garage sales, yard sales, lemonade stands, and the like.

Club: A building or use catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal, or other social purposes.

Commercial: An activity involving the provision of facilities, goods or services (other than by municipal, state or federal governments) to others in exchange for payment of a purchase price, fee, contribution or other object or consideration having value.

Community Sewage Disposal System: Any sewage disposal system, other than a municipal sewage disposal system, owned by the same person, firm, corporation, partnership, or association that disposes of sewage for domestic, commercial, industrial, or institutional uses for two or more customers.

Community Water System: Any water system owned by the same person, firm, corporations, partnership, or association that supplies water for domestic, commercial, industrial, or institutional uses to three or more customers.

Conditional Use: A use that requires a Zoning Permit, and must be reviewed and approved by the Development Review Board before a permit can be issued.

Construction: Exterior substantial improvements or new assembly or placement of a structure on a site, including site preparations, excavation and grading related thereto.

Density: The number of acres or square feet of land area that are required for a given number of units, uses, or structures. Area within a lot or subdivision that is subject to the conditions listed in section 604F.2. of the Subdivision Regulations shall not be included within the lot or subdivision area for calculation of density, except in Planned Unit Developments (PUDs). Where a lot is located in two or more zoning districts, the density for the entire lot shall be the aggregate of the allowable density of each portion that is in a separate district. Two-family dwellings count as one unit for the purpose of density calculations, unless otherwise indicated.

Driveway: A travel way that provides overland access for persons and motor vehicles to one lot or unit.

Dwelling: A building designed or used as the living quarters for one or more families. There shall be no more than one family domiciled per dwelling unit. For the purpose of this definition, a "family" shall mean one or more persons living as a household unit, but not including individuals or groups occupying rooming and boarding houses, clubs, motels, or hotels

Educational Facilities: Includes public and private schools.

Family: One or more persons living as a household unit, but not including individuals or groups occupying rooming and boarding houses, clubs, motels, or hotels.

Final Subdivision Plat: The final drawings on which the subdivision is presented to the Development Review Board for approval and which, if approved, shall be filed for record with the town clerk.

Forestry: The practice of planting and taking care of trees, wooded lands, forests, systematic forest management for production of timber and conservation, to include the cutting of dead, dying or diseased trees.

Garage or Shed: An accessory building, smaller in footprint than the principal structure, that is used for private storage of motor vehicles or other materials.

Gas/Service Stations: Any building or land area used for the retail dispensing or sales of vehicular fuels.

Gas/Service stations may have as an accessory use the sale of convenience food items and the repair of vehicles as described under Auto Service Station.

Gross Floor Area/Gross Sales Area: Total floor area, including basements, ground floor, and upper floors designed or occupied for the principal use of a building (e.g. for an office building, the office and reception areas or for a retail store, the sales area).

Half-way Houses: A non-profit or for-profit boarding home for the sheltered care of no more than four persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

Home Business: A home Business is not considered to be a Home Occupation nor a Home Industry. It shall not require a permit in any district, and shall be considered to be part of a residential use. Home Business is a use of an accessory building or portion of a dwelling for a business which exhibits no apparent indications that a business exists. Refer to section 4.5A of the Zoning Bylaws for details.

Home Industry: A business not meeting the standards of a Home Business or a Home Occupation, may qualify as a Home Industry, which requires conditional use review in the Low Density Residential, Agricultural and Forest Resource and Conservation Districts, and site plan approval in all districts. Refer to section 4.5C of the Zoning Bylaws.

Home Occupation: An occupation carried on in a dwelling which is customarily incidental and secondary to the use of that building for dwelling purposes, and which does not substantially alter the character thereof. See section 4.5B of the Zoning Bylaws for details.

Hotel: (See Lodging Establishments)

Interested Person: A party who may legally appeal to the Development Review Board or Environmental Court, as prescribed by the Act, Section 4465, generally including any of the following:

- (1) The party owning title to the subject property, or the designated agent of said party, or a municipality or solid waste management district empowered to condemn it or an interest in it.
- (2) Persons owning or occupying property in the immediate neighborhood.
- (3) Any ten voters or property owners in the Town who file a petition with the Development Review Board.
- (4) The board of Selectmen of the Town, or of any adjoining town.
- (5) Certain State agencies.

Light Industrial Uses: A warehouse, wholesale, research, material and equipment storage, or light manufacturing facility customary in a small rural community which does not generate more than a yearly average traffic of 50 vehicles per day and that has a building comparable in size or other buildings in the surrounding area.

Lodging Establishment: A building or buildings containing rooms which are rented for money or other compensation as sleeping units for transients, each sleeping unit consisting of, at the least, a bedroom and a bathroom (shared bathrooms are also permitted). Included are hotels, motels, tourist courts, cabins, motor lodges, and the like.

Lot: A parcel of land of at least sufficient size to meet the minimum zoning requirements and to meet the standards of the subdivision regulations and the town or state health regulations. A lot is a parcel of land, under one ownership, not divided by any public road, highway, or street, and occupied or intended to be occupied by one principal building or other structure or used together with any accessory building or open space. Such a lot shall have frontage on an improved street or road or other legally approved access. Land in common ownership shall constitute a lot even if acquired by separate deeds or conveyances.

Lot, Corner: A lot at the point of intersection of, or abutting on two or more intersecting streets, roads, or other approved means of access, the angle of intersection being not more than 135 degrees.

Lot Frontage: A boundary of a lot on an improved street, road or other approved access. Frontage must be continuous and uninterrupted in order to meet the required frontage lengths in each district. (See Street Line)

Lot of Record: Any lot, which individually, or as a part of a subdivision, has been recorded under the proper procedural steps in the office of the Fairfax Town Clerk.

Low Impact Public Facilities/Uses: Includes municipal public and quasi-public facilities such as parks, playgrounds, educational facilities and recreation areas, and state parks.

Major Motor Vehicle Repair: An enclosed establishment whose primary purpose is the major repair of motor vehicles, and farm and construction equipment, including body shops, vehicle electrical and mechanical repair shops and the like. Sales incidental to the operation are allowed.

Major Subdivision: Any subdivision containing ten or more lots, including all lots created from a single parcel within the past ten years; any subdivision requiring installation of new public streets; any non-residential subdivision; or any other subdivision classified as major by the Development Review Board at sketch plan review.

Minimum Lot Area: The smallest lot area on which any land or building development, construction, alteration, addition to an existing structure, or change in use is permitted if also in conformance with all other provisions of these regulations (See Area).

Minor Subdivision: Any subdivision containing nine or less lots, including all lots created from a single parcel within the past 10 years, and which does not require installation of new public streets or a community sewer or water system, and/or a subdivision classified as minor by the Development Review Board at sketch plan review.

Mixed Use Buildings: A building containing two or more uses permitted or conditionally permitted in the particular district in which the building is located.

Mobile Home: A single family detached dwelling unit designed to be transported after fabrication on wheels or trailers to a prepared site. A mobile home contains substantially the same water supply and waste disposal systems as conventional housing. A sectional prefabricated house shall not be considered a mobile home.

Mobile Home Park: Any parcel of land under single or common ownership or control which is used to accommodate two or more mobile homes, but not including a premises used solely for the display or sales of mobile homes.

Modular (or Prefabricated) Housing: A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Multi-Family Dwelling: A structure designed, built, or used as living quarters for three or more families, including apartments and condominiums.

Non-conforming lot: A lot that does not conform to the present bylaws covering dimensional requirements but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a lot improperly authorized as a result of error by the administrative officer, 24 VSA Section 4303 (13).

Non-conforming structure: A structure or part thereof not in compliance with regulations covering building bulk, dimensions, height, area, yards, density, or off-street parking or loading requirements, where such structure complied with all applicable laws, ordinances, and regulations prior to the enactment of current regulations including a structure improperly authorized as a result of error of the administrative officer. 24 VSA Section 4303(14).

Non-conforming Use: A use of land which does not conform to the (district) allowable use provisions of the current regulations where such use conformed to all applicable laws, ordinances, and regulations prior to its enactment, including a use improperly authorized as a result of error of the administrative officer. 24 VSA Section 4303 (15).

Office Building: A building in which more than one personal, professional, business, or social service office and/or organization are located, whether or not such offices are of individual or group service orientation.

Parking Space: An off street area other than a loading space of not less than 200 square feet exclusive of access and maneuvering areas, ramps, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time.

Permitted Use: A use that requires a Zoning Permit; but does not typically require review by the Development Review Board before the permit can be issued.

Personal Service Establishment: Includes barbershop, beauty parlor, laundry, photographic studio and similar businesses providing services of personal nature, does not include businesses that meet the definition and criteria for home industry or home occupation. Personal Service Establishments that meet the definition of home industry or home occupation will be regulated under section 4.5 of the zoning bylaw.

Places of Worship: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes: synagogue, temple, mosque, or other such place for worship and religious activities.

Planned Unit Development (PUD): A proposal to the Development Review Board for a unique and innovative project not otherwise possible under these Bylaws, to provide : a) a different mixture, density and arrangement of uses or b) structures using increased energy efficiency, or c) preservation of open space, or d) preservation of scenic vistas from public roadways (See also the Vermont Planning and Development Act, 24 VSA, Chapter 117, Section 4417). The project may include any combination of commercial uses, industrial uses, recreational uses, educational or community facilities or dwelling units in detached, semi-detached, or multi-storied structures.

Plat: A site development plan map including all of the information required and prepared for filing, under the proper procedural steps, with the Town Clerk.

Plot Plan: A development plan map showing, at an appropriate and consistent scale, all existing physical and man-made features, all property, easement, and right-of-way lines, all proposed structure locations and land use alterations, and any other information as may be required to determine compliance with the provisions of the Zoning Bylaw.

Preliminary Plat: The preliminary drawings for a major subdivision indicating the proposed layout of the subdivision to be submitted to the Development Review Board for its consideration.

Principal Structure/Use: A structure or use directly involved with the primary purpose of ownership on a particular lot, which, together with its accessory structures/uses, constitutes all structures and uses of said lot. See Section 6.4 of the zoning bylaws for details.

Professional Services: Includes doctor, dentist, lawyer, engineer, certified public accountant, consulting firm, real estate broker or appraiser, chiropractor, planner, architect, funeral home, bank, and similar professions. Does not include businesses that meet the definition and criteria for home industry or home occupation, as they will be considered under those sections in the bylaws. Does not include any manufacturing, processing or fabrication of any article, substance or commodity.

Public (Community) Facilities: Those facilities provided for and/or available to the residents of the Town, including sewage disposal, fire protection, town equipment garages, police protection, public and private hospitals, educational facilities, governmental administration buildings, churches, other places of worship, convents, and parish houses, sewage and water facilities, fire facilities, postal services, public parking garages and like facilities.

Qualified Person (Wastewater Permits): For the purposes of wastewater permits, a qualified person shall mean a licensed Professional Engineer (PE), or a licensed Site Technician A or B. Type B site technicians are allowed to design and inspect one-lot subdivisions or developments, including those that require site modifications for leach-field designs that involve excessive slopes, curtain drains, mound systems, and rapidly permeable soils. Type A Certified Site Technicians may design and inspect only those one-lot subdivisions or developments that do not require site modifications.

Recreation - Indoor: Includes indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation.

Recreation - Outdoor: Includes golf course, golf driving range, trap, skeet, and archery range, swimming pool, skating rink, tennis court, riding stable, park, beach, recreation stadium, skiing, campgrounds, and similar places of outdoor commercial recreation.

Recreation – Public: Includes all recreational facilities supported/promoted or developed by the Town or School District that provide recreational opportunities to town residents and visitors.

Residential Care Home or Group Home: A home serving not more than eight (8) persons who are developmentally disabled, physically handicapped, foster children, aged, disadvantaged, and so forth shall be considered a single family dwelling (and shall be a permitted use wherever single family dwellings are a permitted use). No such home shall be located within one thousand (1,000) feet of another such home except in the Growth Center.

Residential Use: Includes single-family, two-family, and multi-family dwellings.

Re-subdivision: Any change in a locally approved recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot line, or if the change affects any map or plan legally recorded prior to the adoption of any subdivision regulation by the Town of Fairfax.

Retail Sales: Includes restaurants, bakeries, drive-in establishments, personal service shops, department stores, art galleries, grocery stores, drug stores, stationary stores; and shops and stores for the sale of retail goods, agricultural products, forestry products, crafts, and the like. Retail uses shall have buildings with retail space no greater than 7500 square feet and primarily serve the residents and visitors of Fairfax and neighboring communities. For-profit sales operations, exceeding six days per year, shall be considered retail.

Road: A travel way that provides overland access for persons and motor vehicles to two or more residential and/or commercial lots or units.

Rooming and Boarding Houses: An owner occupied residence where a person or persons, for a fixed period of time, are supplied with and charged for meals or sleeping accommodations or both.

Seasonal Dwelling: A dwelling unit (including a hunting camp and seasonal camp) not used as a principal residence that may be occupied weekends and for brief periods during the year. Seasonal dwellings must meet all requirements of these regulations pertaining to year-round dwellings, including a wastewater disposal permit. A non-commercial hunting camp must provide for composting sanitary waste facilities at a minimum.

Seasonal Non-Profit Concession: A temporary facility operated by a non-profit organization providing goods or services.

Setback: The nearest distance between a building face and the centerline of a public or private right-of-way. For the purpose of this definition, a "building face" shall include porches and decks, whether enclosed or unenclosed, but does not include steps.

Sketch Plan: An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to save time and expense in reaching general agreement with the Development Review Board as to the form of the subdivision and objectives and requirements of these regulations.

Social Services: Any lot or area of land including the building or buildings thereon which is used for convalescent homes, human rehabilitation facilities, specialized educational facilities, and like uses, and including group and/or community care homes serving more than six (6) persons.

Storage Facilities: A structure containing self-service separate, individual and private storage of spaces of varying sizes leased or rented on individual leases for varying periods of time.

Street: Any road, highway, avenue, street, land, or other way between right-of-way lines commonly used by the public for vehicular traffic.

Street Line: The line dividing the street and a lot. Where the width of a street is not established, or cannot be determined the street line shall be considered to be twenty five (25) feet from the center of the street.

Structure: Anything constructed, erected or placed and which requires a fixed location on the ground in order to be used. Included, in addition to buildings, are signs, carports, porches, patios, swimming pools, and any other building features. Not included are sidewalks, driveways, and fences.

Structure Height: The vertical distance measured from the average grade at the base of the structure to the highest point of such structure.

Subdivider: Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development or otherwise any subdivision or part thereof as defined in these regulations, either for himself or others. The term shall include an applicant for subdivision approval.

Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development. The term includes amended subdivisions and resubdivisions. The term also includes the development of a parcel of land as a planned unit development.

Substantial Improvement: Any exterior construction, reconstruction, addition, alteration or replacement which involves more than one hundred (100) square feet of new floor space or building area (i.e. steps, small porch, etc. would generally not be considered "substantial improvements").

Theatre: A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Travel Trailer: Means travel trailer, tent trailer, camper trailer, truck camper, or any other device or conveyance so constructed as to permit its ready transport on public highways, and designed as temporary living/sleeping quarters. A travel trailer is in no way included under the Mobile Home definition.

Transmission and Distribution Lines: Overhead or underground lines or wires used for the transmission and/or distribution of power, information, voice or digital data to multiple customers.

Two Family Dwelling: A building designed, built, or used as living quarters for two families. There shall be only one family domiciled per dwelling unit.

Use: The specific purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or is intended to be occupied.

Yard: An open space on a lot unoccupied and unobstructed (by a structure) from the ground upward, between the building and the lot line. Any yard adjoining a street shall be considered a front yard for the purpose of the zoning bylaw. Minimum setback requirement shall apply to both frontages on a corner lot.

Variance: The requested relief from the Zoning Regulations, to be adjudicated in conformance with Section 4469 of the Act.

Vehicular Access Management Plan: Section 1.0 of the "Required Improvements and Design Standards Applicable to Zoning Bylaws and Subdivision Regulations (Appendix A), constitutes the Town's Vehicular Access Management Plan. Other regulations are also incorporated in the plan by reference.

Town of Fairfax



Appendix C: Wireless Communication Facilities

Adopted September 12, 2000

Amendments Adopted May 23, 2002

Amendments Adopted October 11, 2005

Amendments Adopted August 6, 2007

Effective Date August 27, 2007

APPENDIX C

WIRELESS COMMUNICATION FACILITIES

1.0 FINDINGS

Technological developments in the telecommunications and broadcast industries have resulted in demands, for development of property to accommodate these land uses. Wireless communication facilities have become increasingly important to the security and economic needs of residents and businesses in the Town. This trend will continue, creating new opportunities for commerce, reducing demand for travel by conventional modes. Given the potential impacts, these facilities may have on the public good, safety and welfare of the Fairfax citizens, it is, therefore, in the Town's interest to plan for and regulate the orderly development of such facilities.

2.0 PURPOSE

The purpose of this section shall be to regulate the placement, design, construction and modifications of wireless communication facilities so as to promote the economic viability of the Town and to protect its historic, cultural, natural and aesthetic resources.

3.0 CONDITIONAL USE APPROVAL

A. The Zoning Administrator shall not issue a Zoning permit for a wireless communication facility until the Development Review Board grants conditional use approval.

B. Application Requirements:

1. Name and address of the record landowners and any duly appointed agents of the parties.
2. Names and address of the record owners of all abutting properties.
3. A map or sketch of the property proposed to be developed, professionally drawn to scale and with the area to be developed clearly indicated.
4. A description of the proposed development.
5. The location of the proposed structure on a USGS Topographic Map or Survey with 20' elevations or a GIS generated map compatible with VCGI standards.
6. A utility and access road plan located on a USGS Topographic Map.
7. Where the wireless communication facility is located on a parcel that is forested, the approximate average height of the existing vegetation within 100 feet of the tower base.
8. A design or plan for all structures, buildings, or facilities proposed for the site.
9. The proposed locations of all existing and proposed wireless communication facilities in Fairfax and within 20 miles of the proposed site for all licensed carriers seeking approval under this application.
10. To the extent required by the National Environmental Policy ACT (NEPA) and as administered by the FCC, an Environmental Assessment (EA) draft or final report outlining the probable impacts of the proposed facility on wildlife habitats, endangered species, historic and archeological resources, wetlands, and other resources.
11. A cumulative radio frequency radiation study demonstrating compliance with FCC standards at the site.
12. Existing wireless communication facility for any competitor providing functionally equivalent service to Fairfax and the estimated coverage area.
13. Construction sequence and time schedule for completion of each phase of the entire project.

- C. A public hearing after public notice shall be held by the Development Review Board to determine whether the proposed use conforms to the general and specific standards of this section.
- D. The Development Review Board shall act to approve or deny any such requested conditional use within forty-five (45) days after the date of the final public hearing held under this section; failure to do so within such period shall be deemed approval. The Board shall make affirmative findings for each of the following criteria in addition to the other applicable provisions set forth in these Regulations:
1. Yard Requirements – Equipment, buildings, and other structures shall conform to the minimum front, side, and rear setbacks for the district in which they are located.
 2. Height Limitations – The height limit for towers, antenna, and tower related fixtures in all districts shall not exceed twenty (20) feet above the average height of the tree line measured within one hundred (100) feet of the highest vertical element of the wireless communication facility. Notwithstanding the above, additional height may be approved upon finding by the Development Review Board that it is necessary to provide adequate coverage to Fairfax, or to accomplish co-location as outlined in sub-section (7) below and does not have an undue adverse visual impact on scenic or natural beauty as outlined in subsection (9) below.
 3. Setbacks – All wireless communication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding, the above, in order to ensure public safety, the minimum distance of any wireless communication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless communication facility, a fall zone setback may not be required.
 4. Lighting – Towers requiring lighting shall not be permitted unless deemed necessary by the Development Review Board as the only viable alternative to meet reasonable facility requirements of a communications service provider. The only tower lighting to be permitted by the Board shall be required by FAA regulation or by special necessity to ensure aviation safety where FAA standards apply. All tower lighting shall be shielded to minimize glare and impact on neighboring properties.
 5. Bulk, Height and Glare – All wireless communication facilities shall be designed in such a manner as to minimize the visual impact of height, mass, guy wire supports, and disruption of existing vegetation. Materials utilized for the exterior of any structure shall be of a type, style, color and location so as to minimize glare and not result in an undue adverse visible impact on any scenic or historic viewshed, public vantage point or abutting properties.
 6. Screening – Screening shall be required at the perimeter of the site unless it can be demonstrated that existing natural foliage is adequate. A planted or natural vegetative screen shall be a minimum of ten (10) feet in depth with minimum height of six (6) feet and shall have a potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to decrease the visual impact of the wireless facility on surrounding properties and vantage points.
 7. Co-location – The principle of co-location shall be employed, where feasible, to minimize the number of towers necessary to provide competition by FCC licensed providers. This shall impose a burden upon the applicant to demonstrate that there are no existing sites within a 20 mile radius of the proposed site which are suitable to the applicant’s needs despite a due diligence search, and that if such facilities do exist, that they are either technically inadequate or that the owner, after a process of good faith negotiation, will not allow co-location. The duration and terms of the offer shall be disclosed to the Development Review Board. It shall be the burden of

the applicant to perform an analysis of technical feasibility. The applicant shall be required by permit condition to allow other wireless service providers to co-locate on any new or existing tower subject to reasonable terms and conditions. Notwithstanding, there shall be no affirmative obligation on the applicant to increase the height or width of a tower in order to accommodate the equipment or facilities of another user nor shall the applicant be required to engineer the tower to accommodate another potential user. The applicant shall provide evidence in writing on how it intends to comply with this requirement and to provide copies of any such proposed agreements for proposed co-location or new tower construction.

8. Access Roads and Above Ground Utilities – Where new wireless communication facilities require construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land. Access roads, when consistent with the purposes of this section and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area.
9. Protection of Scenic Ridges and Hillsides – Where, the Development Review Board, after consultation with the Zoning Administrator and the applicant, determines that a proposed wireless communication facility will likely be visible against the skyline from at least one vantage point on a State highway or Class I or II highway, or at least two vantage points on a Class III town highway no less than 1000 feet apart, the applicant shall prepare a report identifying the duration and frequency for which the tower would be visible to a passing motorist or a boater in feet and the distance to the proposed facility from the vantage points. The Board may require the report to include the elevation of the ground level of the facility site, the average elevation of vegetation within 100 feet of the facility within the affected view shed, the slope of the facility site, the vertical height of the facility, appropriate design measures and recommendations to minimize any impact on scenic quality.

To assist the Development Review Board in its review of a likely visual impact of a proposed facility under this sub-section, the Board may require the applicant to fly or raise a three foot diameter balloon at the maximum height of the proposed facility at a location within fifty (50) horizontal feet of the center of the proposed facility. The applicants shall provide at least seven (7) days written notice to the Board of the date and time of the test. The applicant shall provide the Board photographs of the balloon test taken from at least four vantage points previously designated by the Board.

Upon review of the applicant's report, supporting materials, testimony from the parties, and inspections from the designated vantage points, the Development Review Board shall ensure that the proposed wireless communication facility shall not have an undue adverse visual impact on the scenic or natural beauty of the land proposed to be developed as viewed from public highway or water body within the Town.

Where a tower would break or cross the skyline when viewed from the identified vantage points, the Development Review Board may designate an alternative location for the tower to be evaluated by the applicant. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's broadcast objectives.

For the purposes of this subsection, a wireless communication facility shall be presumed likely to be visible against the skyline when the facility is more than eight (8) inches wide or in diameter at the point where it intersects the tree line or forest canopy.

In determining whether or not a tower would have an undue adverse visual impact on the scenic or natural beauty of a ridge or hillside, the Development Review Board shall consider:

- a. The period of time during which the proposed tower would be viewed by the traveling public on a public highway.
- b. The frequency of the view of the proposed tower as experienced by the traveling public.
- c. The degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures.
- d. Background features in the line of sight to the proposed tower, that obscure the facility or make it more conspicuous.
- e. The distance of the proposed tower from the viewing vantage point and the proportion of the facility that is visible above the skyline.
- f. The number of vehicles traveling on a public highway or water at or near the critical vantage point.
- g. The sensitivity or unique value of the particular view affected by the proposed tower.
- h. Significant disruption of a viewshed that provides context to a historic or scenic resource.

The Development Review Board shall have the authority to impose conditions consistent with the purpose of this Section in approving a proposed plan for the development of a wireless communication facility. A notice of decision with conditions shall be promptly recorded or filed with the Town by the Development Review Board or Zoning Administrator. It shall be the obligation of the permittees and subsequent assigns to remain in compliance with all conditions.

4.0 PROVISION FOR INDEPENDENT CONSULTANT

As provided in Section 4440(d) of the act, to assist the Development Review Board in its review of applications for Conditional Use Approval under this section, the Board may require the applicant to pay for reasonable costs of an independent technical review of the application. Any or all final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding

5.0 AMENDMENTS

An amendment to a prior approved wireless communication facility may be considered by the Development Review Board and shall require Conditional Use Approval from the Board when any of the following are proposed:

1. Changes in the number of facilities permitted on the site.
2. Changes in technology used for the facility.
3. Addition of any equipment or additional height not specified in the original application.

6.0 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any wireless communication facility that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof to the contrary through quarterly inspections. The owner shall remove the abandoned structure within ninety (90) days of the receipt of a declaration of abandonment from the Development Review Board notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a noticed public hearing conducted by the Board with notice to the last known owner/operator and occupants of the tower. If the

abandoned tower is not removed within 90 days, the Town may bring action to have the tower removed. The Board as a condition to approval may require the applicant to provide a performance bond, or similar form of surety payable to the Town at an amount sufficient to cover the full costs of removal of the tower and antenna(s) in the event that the facility is declared abandoned.

7.0 FEES

A schedule of fees for wireless communications facilities to cover project review, permitting, and monitoring costs shall be established by the Fairfax Selectboard and may from time to time be amended.

8.0 CONSISTENCY WITH FEDERAL LAW

These regulations are intended to be consistent with Section 704 of the 1996 Telecommunications Act. Accordingly, they shall not prohibit or have the effect of prohibiting the provision of personal wireless communications services; shall not unreasonably discriminate among providers of functionally equivalent services; and shall not regulate personal wireless services based on the environmental effects of radio frequency emissions to the extent that these facilities comply to the Federal Communications Commission Regulations concerning such emissions.

9.0 SEPARABILITY

If any part or provision of this section or the application of this section is adjudged invalid by a court of competent jurisdiction, the judgment shall be confined in its operation to this section, or application directly involved in the controversy in which the judgment has been rendered. Accordingly, it shall not affect or impair the validity of the remainder of this section or the application thereof to other service providers or circumstances.

10.0 DEFINITIONS

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

FAA – Federal Aviation Administration

FCC – Federal Communications Commission

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

Wireless Communication 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 transmissions/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 Fairfax from which a proposed wireless communication facility will be visible.

Town of Fairfax



Appendix D

Subdivision Regulations for Construction or Improvement of Roads and Driveways:

Adopted August 6, 2007
Effective Date August 27, 2007

*(Appendix D replaces and supercedes the Town of Fairfax Interim Subdivision Regulations
Concerning the Construction of New Roads)*

APPENDIX D

Subdivision Regulations for Construction or Improvement of Roads and Driveways

- 101 APPLICABILITY:** The standards in this section apply to the following:
1. New roads and driveways.
 2. Existing private roads with additional lots or uses.
 3. Class IV town roads with additional lots or uses.
 4. Existing driveways which will be upgraded to roads because of additional lots or uses.
- These standards shall apply regardless of whether the road is proposed to be conveyed to the Town.
- 102 DEFINITIONS:** For the purpose of these regulations, the following terms shall have the meaning set forth herein:
- Driveway:** A travel way that provides overland access for persons and motor vehicles to one lot or unit.
- Road:** A travel way that provides overland access for persons and motor vehicles to two or more residential and/or commercial lots or units. If a proposed subdivision uses an existing road and/or driveway to provide access to additional lots or units, that driveway and/or road must be upgraded to road standards as defined in Section 104 below.
- 103 APPLICATION REQUIREMENTS:** In addition to the submission requirements of Section 201 of the Subdivision Regulations, the subdivider shall be required to submit the following:
1. Type of, location, and approximate size of existing and proposed streets, utilities, and open space. Proposed street patterns in all districts shall be designed to be in harmony with existing or proposed roads.
 2. All roads shall have free access to or shall be a continuation of one or more public roads or highways.
- 104 ROAD STANDARDS:** All roads subject to this Regulation shall be designed by a Vermont registered professional engineer and constructed in accordance with the standards specified below.
1. **WIDTH.**
 - A. **THE RIGHT OF WAY SHALL BE A MINIMUM OF 50 FEET IN WIDTH WITH WIDER SLOPE AND DRAINAGE RIGHTS IF DEEMED NECESSARY BY THE DEVELOPMENT REVIEW BOARD.** A right of way serving a single unit or use may be narrower than 50 feet, but in no such case shall any additional units or uses be served by the right of way without widening such right of way to at least 50 feet.
 - B. The centerline of the road is to be located in the center of the right of way. The right of way conveyed shall intersect at least one existing class I, II, or III Town Road, State highway, or private road previously approved by the Development Review Board which

meets these standards. In no case shall any development be permitted which is accessible only by intersection with a Class IV highway. However, the subdivider may petition the Town of Fairfax Selectboard to upgrade the highway, if the public good and necessity requires, to a Class III highway, but in so doing, the subdivider shall bear the costs of upgrading that road.

- C. The traveled portion of all roads to be constructed in the Town of Fairfax shall be a minimum of 24 feet in width. A shoulder at least 2 feet wide shall be constructed on each side.
- 2. **STANDARDS ADOPTED.** The Vermont Agency of Transportation Standards A76 and B71 are hereby adopted and shall be enforced as supplemental criteria under these Regulations.
- 3. **EROSION CONTROL.** The applicant shall ensure the stability of wet areas, soils and banks adjacent to the proposed road. The Development Review Board may require additional gravel plus a sand cushion or fabric and underdrain to ensure the stability of the road. See also Section 106, Subsection 8, SLOPES AND BANKS.
- 4. **SHOULDERS.** Shoulders shall be a minimum of two feet in width on a side and shall be constructed to the same specifications as the subgrade, subbase and base. Shoulders shall be a minimum of four feet at guardrail sites.
- 5. **PAVING.** The Development Review Board shall determine whether the roadway is to be paved. In making such determination, the Development Review Board shall consider the following:
 - A. **PROPOSED USE.** Arterial and collector roads are defined as roads, which will normally and customarily be used as a course of travel to destinations other than the properties fronting upon said roads. An arterial or collector type of proposed use will normally require pavement. A non-arterial or non-collector type of proposed road is used only for ingress and egress to the properties fronting on or connected to said road will not normally require pavement.
 - B. **DENSITY.** Where there is less than 1 unit per 2 acres fronting on or connected to the proposed road the Development Review Board may waive the paving requirement.
 - C. **CHARACTER OF THE AFFECTED NEIGHBORHOOD.** The Development Review Board will be guided by the prevailing characteristics of the surrounding area as well as the proposed development in deciding whether to require pavement of a proposed road.
 - D. **SAFETY CONSIDERATIONS.** The Development Review Board shall consider the terrain, course, hazards and suitability of the proposed road. Safety to the traveling public and inhabitants along the road is the paramount concern in deciding whether to require pavement and the extent and form of pavement to require.
 - E. **FUTURE USES.** Future foreseeable connections or intensification of use of a proposed road shall be considered in determining whether and when to require pavement and what form or locations of pavement or finishing to require.
 - F. **PAVING REQUIRED.** If the Development Review Board determines that the public good and necessity requires the proposed roadway to be paved, it shall so specify in its decision. Such decision shall require that paving occur within one year after construction of the road and after one winter season has passed. Such decision shall require that the roadway be paved with hot bituminous concrete mix meeting all Vermont State Highway specifications for hot asphalt bituminous concrete mix. The bituminous concrete is to be

laid and rolled by experienced crews in two layers. The first, the binder course, to a depth compacted to 2 inches and the second application compacted to a depth of 1 inch of hot bituminous concrete, surface mix. All work shall be done in a professional manner.

6. **CROWN.** The street shall have a cross slope from centerline to edge of shoulder of $\frac{1}{4}$ inch per foot and from the edge of street to edge of shoulder of $\frac{5}{8}$ inch per foot.
7. **DITCHES, CULVERTS AND HEADERS.**
 - A. **DRAINAGE DITCHES.** Based on the professional judgment of an engineer, drainage ditches shall be provided where necessary and shall be constructed to prevent infiltration of water into the gravel sub-base and to conduct stormwater drainage to waterways and absorption areas. Accordingly, drainage ditches adjacent to roads shall be at least 6 inches below the gravel sub-base or 18 inches below the finished grade to minimize spring break-up conditions. Ditches shall be shaped to prevent excessive erosion on the shoulder, the right-of-way, and the bank sides of the ditch cross-section.
 - B. **DRAINAGE GRADE.** Open drainage ditches in excess of 5% grade shall be paved with stone or asphalt. Underdrain will be required where soil and water conditions make it necessary.
 - C. **CULVERTS.** Culverts shall be installed during the construction of the road and prior to preparation and placement of the subbase and surface. Backfill in excavations for culverts shall be compacted to prevent or minimize settling in surface shoulders or slopes. Culverts shall be covered with a minimum of 24 inches of material.

Culverts shall be installed in all low spots and be of sufficient size to handle the anticipated "run-on" but shall not be less than eighteen (18) inches in diameter and shall extend at least one (1) foot beyond all fill, measured at the bottom of the culvert and shall have not less than two (2) feet of packed cover.

Culverts shall be spaced no greater than 300 feet apart in one continuous ditch line.

- D. **HEADERS.** Headers shall be installed at the inlet of all culverts and may be either reinforced concrete eight (8) inches thick, large flat rock tightly placed, or large cemented rock. The inside edge of headers shall be at least eight (8) feet from the outside edge of the shoulder. Marker posts four (4) to six (6) inches in diameter shall be installed at both ends of the culvert.
8. **SLOPES AND BANKS.** Vertical or sharp cut faces, excepting ledge, shall not be permitted. Slopes and banks shall not be steeper than 15% grade. Soil stability of banks shall be a design consideration. Slopes or banks shall be designed and constructed to prevent instability, slides, washes, or other disturbance to the slope or bank surface or subsurface. Banks shall not interfere with snow removal. After construction and final grading of banks, banks will be seeded and mulched to minimize surface erosion. Cribbing or riprap shall be provided where necessary.
9. **GRADES.** Roadway grades shall be at least 1 percent but not more than 10 percent unless paved or double tacked. **IN NO CASE SHALL GRADE EXCEED 12 PERCENT.** Finished grades (transverse and longitudinal) shall be smoothed to eliminate sharp dips in traveled surface and, as may be necessary, to permit efficient snow removal and proper drainage.

The maximum grade within 50 feet of an intersection shall be 4%.

- 10. **CURVES.** Radius of curves shall be long enough to permit easy flow of traffic, including trucks, graders, and fire engines, with at least a 100-foot radius in all cases, measured on the centerline. Trees and boulders shall be removed to permit adequate lines of sight on all curves.
- 11. **DRIVEWAYS, ENTRANCES AND APPROACHES.** Driveways cannot interrupt the natural or ditch line flow of drainage water. In some cases where shallow ditch lines or natural drainage courses exist, driveways may be swelled at a point beyond the road shoulder to accommodate the flow of storm water. In all other cases, driveways must have sufficiently sized culverts installed and forever maintained by the homeowner or developer.

In no case shall the culvert pipe under a driveway be less than a 15-inch diameter pipe. There shall be an all season safe sight distance of 200' in each direction. Driveways shall intersect the roadway at a preferred angle of 90 degrees but in no case shall the intersecting angle be less than 50 degrees.

No driveway may be placed within 100 feet of an intersection. 150 feet is the preferred distance from an intersection. When a road cut is installed, a minimum of 20 feet from the edge of the existing highway shall be zero (0) grade.

Under no circumstances shall a road in a subdivision be permitted which will result in drainage or direct water flow onto a town highway.

In the event a driveway causes damage to a town highway through improper construction, maintenance, or grading, it shall be the responsibility of the property owner to make necessary repairs as required. If such repairs are not made within 30 days, the Town shall repair the driveway and shall bill the property owner for any expenses involved.

All new driveways will be required to have a travel portion at least 16 feet wide and a shoulder at least 2 feet wide shall be constructed on each side. The travel portion shall be constructed in such a manner and of such materials as to reasonably assure safe year-round access by emergency vehicles. All new driveways in excess of 200 feet shall have a 35 foot by 35 foot hammerhead, no further than 200 feet and no closer than 50 feet, from the residence on that driveway. All new driveways in excess of 800 feet require a passing lane every 800 feet, which has a travel portion at least 50 feet long and at least 24 feet wide plus a 2 foot shoulder on each side.

- 12. **INTERSECTIONS.** Intersections shall be as near as possible to right angles (90 degree) with a minimum allowable intersection angle of 60 degrees. The centerline of no more than two accepted rights-of-way shall intersect at any one point. Any intersections of two highways with a third highway shall be separated by a distance of not less than 150 feet between center lines.
- 13. **ROADSIDES.** At completion of the project all debris shall be removed from the right-of-way. Burial of wood, such as stumps, will not be permitted within the 50-foot right-of-way. All disturbed portions of roadsides shall be loamed, seeded and mulched.
- 14. **UTILITIES.** All electric, telephone and cable TV distribution systems within the proposed subdivision shall be placed underground where feasible as determined by the Development

Review Board subject to the provisions of 30 V.S.A. § 2503 where a permit is required for underground placement in a public way by the Town of Fairfax Selectboard.

The developer shall coordinate designs with the appropriate utility companies to ensure adequate and suitable areas for underground installations.

The developer shall be responsible for providing for water mains, manholes, sanitary sewers and catch basins if required. Easements across lots or centered on rear of side lot lines shall be provided for utilities where necessary and shall be at least 20 feet wide.

The developer shall provide documentation of the location of all utility systems as per Article II Section 201, item 5 of the Fairfax Subdivision Regulations.

15. **SIGNAGE.** Street signs shall be in conformance with the Manual on Uniform Traffic Control Devices (MUTCD) and paid for by the developer.

105 EFFECT ON EXISTING REGULATIONS: These regulations shall not repeal or alter any existing ordinances, regulation or by-laws of the Town of Fairfax. These regulations establish requirements that are in addition to those contained in any other town ordinance, by-law or regulation.